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Cc: Johnson, Cameron[cameron.johnson@sol.doi.gov]
From: Peterson, Leah
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[UT Dine Bikeyah, et al incl'd Patagonia v. Trump.pdf](#)
[NRDC et al incl'd SUWA v. Trump.pdf](#)

Please see the two most recently filed complaints, attached. It appears that they both address only Bears Ears.

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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**UTAH DINÉ BIKÉYAH
352 S. Denver St. #315,
Salt Lake City, UT 84111;**

**FRIENDS OF CEDAR MESA,
P.O. Box 338,
300 E. Main St.,
Bluff, UT 84512;**

**ARCHAEOLOGY SOUTHWEST,
300 North Ash Alley,
Tucson, AZ 85701;**

**CONSERVATION LANDS FOUNDATION, INC.,
835 E. 2d Avenue, #314,
Durango, CO 81301;**

**PATAGONIA WORKS,
259 W. Santa Clara Street,
Ventura, CA 93001;**

**THE ACCESS FUND,
P.O. Box 17010,
Boulder, CO 80308;**

**NATIONAL TRUST FOR HISTORIC
PRESERVATION,
2600 Virginia Avenue, N.W.,
Suite 1100,
Washington, DC 20037; and**

**SOCIETY OF VERTEBRATE PALEONTOLOGY,
9650 Rockville Pike,
Bethesda, MD 20814;**

Plaintiffs,

CIVIL ACTION NO. _____

**COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

- v. -

**DONALD J. TRUMP, in his official capacity as
PRESIDENT OF THE UNITED STATES,
The White House,
1600 Pennsylvania Avenue, N.W.,
Washington, DC 20500;**

**RYAN K. ZINKE, in his official capacity as
SECRETARY OF THE INTERIOR,
1849 C Street, N.W.,
Washington, DC 20240;**

**SONNY PERDUE, in his official capacity as
SECRETARY OF AGRICULTURE,
1400 Independence Avenue, S.W.,
Washington, DC 20250;**

**BRIAN STEED, in his official capacity as DEPUTY
DIRECTOR OF THE BUREAU OF LAND
MANAGEMENT EXERCISING THE AUTHORITY
OF THE DIRECTOR,
1849 C Street, N.W.,
Room 5665,
Washington, DC 20240; and**

**TONY TOOKE, in his official capacity as CHIEF OF
THE UNITED STATES FOREST SERVICE,
1400 Independence Avenue, S.W.,
Washington, DC 20250;**

Defendants.

INTRODUCTION

1. Plaintiffs Utah Diné Bikéyah, Friends of Cedar Mesa, Archaeology Southwest, Conservation Lands Foundation, Inc., Patagonia Works, The Access Fund, the National Trust for Historic Preservation, and the Society of Vertebrate Paleontology, on behalf of themselves, their members, and other affiliates ask this Court to declare unlawful President Trump's December 4, 2017 proclamation that revoked the Bears Ears National Monument and replaced it with two new "units." The President's action exceeded Congress' delegation of authority to him in the Antiquities Act of 1906 ("the Antiquities Act"), 54 U.S.C. §§ 320301, *et seq.*, and violates the Property Clause and Take Care Clause of the Constitution. U.S. Const. art. IV, § 3, cl. 2; *id.* art. II, § 3, cl. 5. In the 111-year history of the Antiquities Act, no president has ever reversed a prior president's monument by wholesale removal of protections for landmarks, structures, and other objects of historic or scientific interest. Plaintiffs request that this Court enjoin implementation of the President's unlawful action and restore the original configuration of the Bears Ears National Monument to ensure fulfillment of Congress' clear intent.

2. The President has limited authority under the Antiquities Act. The Property Clause of the Constitution vests Congress with the sole authority to dispose of and make all needful Rules and Regulations respecting property of the United States, U.S. Const. art. IV, § 3, cl. 2, and Congress has delegated to the President, through the Antiquities Act, only the authority to create national monuments through public proclamation. For as much authority as it gave to the President to create these monuments, Congress gave the President no authority to revoke or modify those monuments or to vacate the protections created for those monuments. Congress is the sole authority that can undertake such changes.

3. Pursuant to his authority under the Antiquities Act, President Barack Obama proclaimed the Bears Ears National Monument in southeastern Utah on December 28, 2016, thereby protecting a landscape named for the distinctive twin buttes rising above geologically diverse terrain that has been sacred to native peoples for hundreds of generations. *See* Proclamation 9558, 82 Fed. Reg. 1139 (Jan. 5, 2017). This new national monument had two components: a wide range of archaeological, paleontological, cultural, geographic, geological, and ecological objects designated for protection under the Antiquities Act, *see id.* at 1139-43, and a reservation of approximately 1.35 million acres of public land to be known as “the Bears Ears National Monument,” *see id.* at 1143. President Obama’s action came after years of public discussions and engagement to gather and consider the full range of views from government, industry, Indian tribes, non-profit representatives, and the American public. His proclamation carried the full force of Congress’ delegated authority.

4. On December 4, 2017, President Donald J. Trump signed a proclamation (the “Revocation Proclamation”) purporting to erase the designation of thousands of objects of historic and scientific interest and over 1 million acres from the Bears Ears National Monument. *See Presidential Proclamation Modifying the Bears Ears National Monument*, WhiteHouse.gov (Dec. 4, 2017), <https://www.whitehouse.gov/the-press-office/2017/12/04/presidential-proclamation-modifying-bears-ears-national-monument>. President Trump’s proclamation is unlawful. It exceeds the limits on the President’s authority under the Antiquities Act and arrogates to the President authority reserved to Congress by the Constitution. The President has acted *ultra vires*.

JURISDICTION AND VENUE

5. Plaintiffs’ claims arise under the Antiquities Act, 54 U.S.C. §§ 320301-320303,

the National Landscape Conservation System, 16 U.S.C. §§ 7201-7203, the Property Clause of the United States Constitution, U.S. Const. art. I, § 3, cl. 2, and the Take Care Clause of the United States Constitution, U.S. Const. art. II, § 3, cl. 5. These claims concern the scope of the President's authority to revoke a national monument. As a result, this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331.

6. Venue properly lies in this district pursuant to 28 U.S.C. § 1391(e) because Defendants reside in the District of Columbia and a substantial part of the events or omissions giving rise to this action occurred in the District of Columbia. Upon information and belief, a substantial part of the development of the two Presidential Proclamations at issue in this litigation, as well as the issuance of Proclamation 9558, occurred in the District of Columbia. Advocacy work performed by Plaintiffs in support of President Obama's Proclamation 9558 occurred in the District of Columbia. Plaintiff National Trust for Historic Preservation maintains its headquarters in the District of Columbia, and Plaintiff Conservation Lands Foundation maintains an office in the District of Columbia to assist its advocacy efforts.

7. The requested relief is proper under 28 U.S.C. §§ 2201-2202 and Article III of the Constitution of the United States.

PARTIES

I. Plaintiffs

Conservation Lands Foundation, Inc.

8. Conservation Lands Foundation, Inc. ("CLF") promotes conservancy of public lands through supporting the National Landscape Conservation System (or the "National Conservation Lands") and preserving the outstanding historic, cultural, and natural resources of those public lands. The National Conservation Lands encompass approximately 36 million acres and 2,400 river miles of National Monuments, National Conservation Areas, Wilderness and

Wilderness Study Areas, Wild and Scenic Rivers, National Scenic and Historic Trails, and other special designations. Congress expressly recognized and codified the existence of the National Conservation Lands in 2009, *see* Omnibus Public Land Management Act of 2009, Pub. L. 111-11, 123 Stat. 991 (2009) (codified as 16 U.S.C. §§ 7201-7203), and mandated that those units be managed in accordance with the statute or proclamation establishing them.

9. CLF is a non-profit organization exempt from taxation under 26 U.S.C. § 501(c)(3), incorporated under the laws of the State of Delaware, and headquartered in Durango, Colorado. CLF maintains regional offices in the District of Columbia and five states. Upon information and belief, CLF is the only non-profit in the country specifically dedicated to establishing and safeguarding National Conservation Lands under the care of the Bureau of Land Management (“BLM”). To fulfill its purpose, CLF works to protect, restore, and expand the National Conservation Lands through education, advocacy, and partnership. The Bears Ears National Monument is now a unit of the National Conservation Lands, and the management of and authority for appropriations to the Bears Ears National Monument are governed in part by the Omnibus Public Land Management Act of 2009.

10. Critical to CLF’s success and mission is CLF’s Friends Grassroots Network. CLF’s founding organizational vision was to combine local grassroots power with a sophisticated national strategy that would include dedicated staff and resources to educate Congress, the Executive Branch, and the public about the National Conservation Lands. CLF provides individual groups with technical advice, mentoring, tools, and training to ensure successful on-the-ground projects; CLF also offers guidance to groups on effective advocacy and community education. CLF’s resources and expertise in government relations, advocacy, communications, and outreach provide local advocates with insights into developments affecting

the National Conservation Lands, including the Bears Ears National Monument, as well as the tools needed to influence those developments powerfully and persuasively.

11. Designation of the Bears Ears National Monument has been a central initiative of CLF's for more than five years. CLF's primary focus has been providing strategic support to the local non-profits, particularly Utah Diné Bikéyah, Archaeology Southwest, and Friends of Cedar Mesa, that played important roles in the designation effort. CLF has devoted thousands of hours of its staff time and significant resources to securing the designation of Bears Ears as a national monument.

12. During the last 5 years, CLF provided strategic support to tribal organizations and others leading the effort to protect the Bears Ears region. CLF also undertook significant advocacy efforts of its own. CLF actively engaged in the creation of the Bears Ears National Monument by supporting and participating in the collection of critical data and information on the natural, cultural, historic, and scientific resources and values supporting the Bears Ears National Monument Proclamation, as well as engaging Department of the Interior officials (including former Secretary Jewell) regarding the significance of the Bears Ears region. CLF's efforts continue to date.

13. CLF will suffer direct and immediate injury from the revocation of the designation of the landmarks, structures, and objects of the Bears Ears National Monument. By virtue of its mission, CLF acts as a representative for preservation of the natural cultural, historic, and scientific values of the Bears Ears National Monument and will therefore suffer immediate and irreparable injury by the revocation of the National Monument and diminution or elimination of the protections provided by the Proclamation 9558. Due to the actions of Defendants, CLF will also have no choice but to divert its limited resources away from its ongoing designation

campaigns in the states of Arizona, California, New Mexico, Colorado, Nevada, and Oregon and towards restoring protection of, and mitigating adverse impacts to, this historically and culturally significant area. CLF and the organizations it supports (*e.g.*, Friends of Cedar Mesa, Archaeology Southwest, and Utah Diné Bikéyah) will also divert resources away from important stewardship projects in the Bears Ears region. CLF will need to reallocate resources to new efforts to fight for federal protection of the Bears Ears National Monument and away from on-the-ground public stewardship projects and public education campaigns devoted to the interpretation and protection of the unique objects of scientific, cultural, and historical interest contained in the Bears Ears region.

14. CLF officers and board members regularly visit the Bears Ears region to hike, camp, and explore in the areas now protected by the Bears Ears National Monument. The objects of historic and scientific interest comprising the Bears Ears National Monument are critical to the officers' and board members' use and enjoyment of the monument.

15. Members of the entities within CLF's Friends Grassroots Network use and enjoy the Bears Ears National Monument regularly. This use includes hiking, rock climbing, rafting, backpacking, canyoneering, river running, and photographing and observing the area's unique archaeology, geology, and habitat. The objects of historic and scientific interest comprising the Bears Ears National Monument are critical to the members' use and enjoyment of the monument.

Utah Diné Bikéyah

16. Utah Diné Bikéyah ("UDB") is a Native American-led, values-driven organization that recognizes the deep and ongoing spiritual connection between indigenous people and the land. As an organization founded and focused on Native American traditional and cultural principles, UDB operates at the intersection between culture and conservation, by

promoting land protection that honors and includes human societies that have co-existed with ecosystems since time immemorial.

17. UDB is a non-profit organization exempted from taxation under 26 U.S.C. § 501(c)(3), organized under the laws of the State of Utah, and headquartered in Salt Lake City, Utah.

18. UDB is a member of CLF's Friends Grassroots Network, and, like CLF, has long been involved in stewardship and advocacy to protect the historical and natural aspects of the Bears Ears area.

19. UDB began its work in 2010 through another 501(c)(3) non-profit, Round River Conservation Strategies, by gathering traditional cultural knowledge from Navajo elders about the Bears Ears region, information many had previously been afraid to share for fear that it would lead to the desecration and destruction of cultural resources and sacred sites throughout the area, and then sharing that information as part of the conservation initiatives spearheaded by former Senator Robert Bennett. Beginning in 2011, UDB formed itself as a separate non-profit organization. In June 2014, UDB began an effort to work with the Navajo, Hopi, Zuni, Ute Indian, and Ute Mountain Ute tribes (hereinafter collectively referred to as the "Tribes") to improve preservation of the region. By late 2015, UDB and the Tribes focused on creating a new national monument designation to protect the Bears Ears region under the Antiquities Act.

20. As part of this effort to see a monument designation for the Bears Ears region, UDB engaged high ranking officials at the Department of Interior (then-Director of the BLM, Neil Kornze, and then-Secretary Sally Jewell), and worked to facilitate the formation of the Bears Ears Inter-Tribal Coalition, comprised of leaders from the five Tribes. Working with UDB, the Bears Ears Inter-Tribal Coalition soon crafted and presented the Bears Ears National

Monument proposal to federal officials in Washington, D.C. The National Congress of American Indians, representing 270 tribes from across the United States, later endorsed the proposal.

21. President Obama's Proclamation 9558 establishing the Bears Ears National Monument is a significant achievement for UDB and the tribes to which UDB's members belong, in that only through the designation will tribal members (including UDB members) be assured that their traditional way of life can continue undisturbed. The Bears Ears National Monument represents the first national monument designated under the authority of the Antiquities Act for, and at the request of, sovereign tribes. National monument designation provides the Bears Ears area, and its significant cultural, natural, and scientific resources, with much needed protections.

22. Under President Obama's Proclamation 9558, the Tribes have an integral role in developing management plans for the area, and UDB has been poised to provide important institutional and traditional knowledge to the Tribes and the federal government in the development of these plans. That assistance includes the identification of cultural resources in the Bears Ears National Monument, development of programs for traditional use of ecological resources, and promoting sustainable practices based on cultural and historical use of the area. For instance, before the monument designation, UDB provided an exhaustive study to the federal government that analyzed collaborative management practices for protected areas. *See, e.g.,* Utah Diné Bikéyah, Collaborative Management of Protected Areas, with Examples of Collaboration between Native American Tribes and US Federal and State Agencies (Jan. 20, 2012), <http://www.roundriver.org/wp-content/uploads/pubs/navajo/reports/Co-mgt-Backgrounder-Report-1-20-12.pdf>. This study exemplifies the type of organizational expertise UDB offers the Tribes as they help shape management plans. UDB has also conducted an extensive literature

review report, developed a decision support tool that included all publicly available geographic information system (“GIS”) data for the region, and commissioned a gap analysis to identify differences between the desires of the Navajo community and BLM management practices. With sufficient resources, UDB can bring these same skills to the Tribes and the National Monument’s land management planning process.

23. UDB will suffer direct and immediate injury from the revocation of the designation of the landmarks, structures, and objects of the Bears Ears National Monument. As a result of President Trump’s actions, UDB must now re-allocate its limited resources from these essential ethnographic and educational activities to costly, contentious activities to protect the objects and landscapes within the Bears Ears National Monument from resource development efforts, looting, vandalism, and other adverse impacts on the spiritual and aesthetic value of the area that result from President Trump’s actions. These new activities forced upon UDB include re-mobilizing community members to inform decision-makers about the valuable resources within the Bears Ears National Monument, drafting comments and engaging in efforts to restore the Bears Ears National Monument, and composing materials detailing the values and importance of the Bears Ears National Monument.

24. UDB must also divert its limited resources from developing a sustainable economy built upon local artists, entrepreneurs, businesses, and community leaders in San Juan County, Utah. As part of UDB’s mission, UDB directs its resources toward establishing a local economy that supports the Tribes and their members in a manner that strengthens ties to the land, promotes native cultures and languages, and treats others with respect. Because of President Trump’s actions, however, UDB must divert those resources from significant opportunities tied to the existence of the National Monument and toward assistance to local businesses to protect

the area from mining, looting, and other adverse impacts. These are activities that would not be undertaken but for the Revocation Proclamation.

25. The Bears Ears National Monument is home to sacred landscapes and many sacred sites and resources of significant cultural and spiritual value to the Tribes, and the protection of these landscapes is the central mission of UDB. The Navajo people, as well as members of other tribes, have used, and continue to use, the area for traditional medicine and herb gathering, pinyon gathering, and ceremonies.

26. UDB and its members are committed to ensuring that the ancestral lands within the boundary of the Bears Ears National Monument remain protected so that the vital historic record of the native peoples and opportunities for modern, sustainable cultural use are preserved for future generations. The organization will now have to dedicate time, money, and effort to the campaign to protect these now-threatened areas, to support the Tribes in their individual and collective efforts to oversee the management of their ancestral lands, and to educate the public about why these particular lands are significant. Threats to the landscape of the National Monument are also threats to the cultural heritage and identity of the Tribes and their members.

27. UDB members share deep personal ties to the Bears Ears National Monument, having lived their entire lives close to or within the boundaries described by Proclamation 9558. The areas protected by the Bears Ears National Monument are central to their culture, their faith, and their community. UDB members regularly visit the Bears Ears region to gather herbs and firewood, pray, conduct ceremonies, hike, camp, and explore the areas now protected by the Bears Ears National Monument. The Bears Ears National Monument, and the interconnected historical and cultural resources of its landscape, are of significant cultural and spiritual value to UDB members. Thus, President Trump's revocation of the designation of the landmarks,

structures, and objects and reduction of the National Monument's boundaries will allow for uses that have the potential to desecrate this sacred place of worship.

Friends of Cedar Mesa

28. Friends of Cedar Mesa was founded in 2010 by a former BLM employee to foster stewardship and advocacy for the Cedar Mesa area, with a particular focus on protecting cultural resources. The organization's mission is to ensure that the federal public lands in San Juan County, Utah—with all their cultural, natural, and recreational value—receive appropriate protection and respect. Friends of Cedar Mesa works to achieve its mission in four core areas: policy and advocacy; education and interpretation; stewardship and monitoring; and cultural resource research. Friends of Cedar Mesa also works to create local, regional, and national support for greater protection of Cedar Mesa through education, advocacy for national designations, support for smart local policy-making, and organization of research and volunteer service activities.

29. Friends of Cedar Mesa is a non-profit organization exempted from taxation under 26 U.S.C. § 501(c)(3), incorporated under the laws of the State of Utah, and headquartered in Bluff, Utah. Friends of Cedar Mesa is also a member of CLF's Friends Grassroots Network, and, like CLF, has long been involved in stewardship and advocacy to protect the historical and natural aspects of the Bears Ears area.

30. Friends of Cedar Mesa has a significant interest in the Bears Ears National Monument. The greater Cedar Mesa area is located within the boundaries of the Bears Ears National Monument. Over the past many years, Friends of Cedar Mesa has observed damage to cultural resources in the area caused by looting, inadequate signage or protective barriers, and careless visitors. The damage to the cultural resources in this area resulted primarily from a lack

of resources necessary for conserving the area.

31. Friends of Cedar Mesa was involved in, and committed substantial resources to, protecting the Bears Ears region. In 2013, Friends of Cedar Mesa began focusing its efforts on advocating for protection of Cedar Mesa as a conservation area or national monument as a means to secure additional funding and legal protections for the area. As part of this effort, Friends of Cedar Mesa worked with Utah Diné Bikéyah and Archaeology Southwest to advocate for national monument status and protection for the Bears Ears landscape.

32. Friends of Cedar Mesa devoted significant resources to bringing awareness to and educating the public on the value of designating the Bears Ears region as a national monument. Friends of Cedar Mesa also undertook a landmark project to identify archaeological resources in this area. Friends of Cedar Mesa staff prepared a 300+ page report detailing the archaeological resources within the Bears Ears National Monument. This project required a significant commitment of staff time and resources, taking hundreds of hours to complete, and represented a culmination of the organization's on-the-ground knowledge of cultural resources within the Bears Ears region. For the summer of 2016, this project was the organization's single largest undertaking. Friends of Cedar Mesa staff and board members travelled to Washington, D.C. on multiple occasions to advocate for the permanent protection of the Bears Ears landscape. Friends of Cedar Mesa also created a 179-page report, including a detailed bibliography, entitled "A Cultural Landscape Overview of Archaeological Resources in the Bears Ears National Monument," with the assistance of professional archaeologists and Archaeology Southwest. Both of these reports were provided to the Department of the Interior, BLM, and Secretary Ryan Zinke prior to the Revocation Proclamation.

33. Friends of Cedar Mesa will suffer direct and immediate injury from the revocation

of the designation of the landmarks, structures, and objects of the Bears Ears National Monument. As a result of the Trump Administration's attempt to revoke the national monument designation, Friends of Cedar Mesa will need to divert its limited resources from other preservation efforts to reactivating its activities to protect and restore the objects comprising the Bears Ears National Monument. Friends of Cedar Mesa had decided to campaign against development in the Bluff Bench and Montezuma Canyon areas by organizing public meetings, actions, and advocacy. But because of President Trump's unlawful decision, Friends of Cedar Mesa has redirected staff hours and financial resources away from this campaign to protect the Bears Ears National Monument and the objects constituting that monument. Additionally, Friends of Cedar Mesa set forth a plan to do work inside the National Monument educating visitors, monitoring archaeological sites, catching looters, and building trails and protective fences. Now that national monument status has been illegally revoked, Friends of Cedar Mesa will have to divert resources set aside for those activities to challenging President Trump's unlawful decision.

34. President Trump's actions have also negatively impacted Friends of Cedar Mesa's ability to obtain grants and funding for conservation activities. For example, Friends of Cedar Mesa applied for funding from the Bears Ears National Monument Community Engagement Fund to perform work within the Bears Ears National Monument. This grant is only available, however, if the work is actually performed within a national monument.

35. The board members of Friends of Cedar Mesa use and enjoy the areas designated as the Bears Ears National Monument for several activities, including hiking, rock climbing, rafting, backpacking, canyoneering, river running, photographing, and observing the area's unique archaeology, geology, paleontology, and habitat. The objects of historic and scientific

interest comprising the Bears Ears National Monument are critical to the use and enjoyment of the National Monument by board members. Many of the board members of Friends of Cedar Mesa enjoy clean drinking water from the Navajo aquifer, which lies under land within the Bears Ears National Monument and is thereby protected from the impacts of extractive activities.

Archaeology Southwest

36. Since its inception, Archaeology Southwest's core mission has been to pursue preservation archaeology in the southwestern United States – Arizona, New Mexico, Colorado, and Utah. Preservation archaeology is a holistic, conservation-based approach to exploring the places of the past focused on preserving cultural landscapes, archaeological sites, artifact collections, and archives. Archaeology Southwest undertakes a broad range of preservation initiatives on behalf of these resources. For example, Archaeology Southwest conducts low-impact research, educates the public on archaeological issues, and protects irreplaceable archaeological sites through education, easements, and fee ownership.

37. Archaeology Southwest is a 26 U.S.C. § 501(c)(3) nonprofit organization headquartered in Tucson, Arizona. Archaeology Southwest is also a member of CLF's Friends Grassroots Network.

38. Archaeology Southwest has a specific interest in supporting the designation of landscapes like Bears Ears as national monuments to preserve the land and its resources. In fact, in 2001, Archaeology Southwest published a special issue of its quarterly magazine that highlighted the Antiquities Act and each of the new national monuments in the Southwest designated by President Clinton. As another example, since 2009, Archaeology Southwest has advocated for the establishment of a Great Bend of the Gila National Monument in an 84,000-acre area that follows the Gila River for roughly 80 miles southwest of Phoenix.

39. Archaeology Southwest was involved in, and committed substantial resources to, protecting the Bears Ears area. In 2014, Archaeology Southwest identified the protection of the Bears Ears area as a priority for the organization. As part of this initiative, Archaeology Southwest worked with Friends of Cedar Mesa to propose a national monument or conservation area.

40. Archaeology Southwest devoted significant resources to bringing awareness to and educating the public on the value of the Bears Ears area, including by devoting a double issue of Archaeology Southwest's quarterly magazine to the Bears Ears area. Archaeology Southwest also sent a letter to President Obama explaining the importance of this area. Archaeology Southwest staff visited Washington, D.C. to advocate for the permanent protection of Bears Ears. Additionally, Archaeology Southwest's Executive Director engaged with then-Secretary Jewell regarding the importance of designating the Bears Ears region a national monument.

41. Archaeology Southwest will suffer direct and immediate injury from the revocation of the designation of the landmarks, structures, and objects of the Bears Ears National Monument. As a result of the Trump Administration's efforts to revoke the national monument designation, Archaeology Southwest will need to divert its limited resources from other preservation efforts to continuing support of the Bears Ears National Monument. For example, Archaeology Southwest has organized a team to put together a second magazine issue highlighting the value and importance of the area. In addition, Archaeology Southwest worked with Friends of Cedar Mesa to organize and implement an August 23, 2017 gathering of professional archaeologists who are experts in the Bears Ears region to identify important archaeological resources, important research issues, and important protection priorities for Bears

Ears National Monument. To that end, Archaeology Southwest staff members have devoted extraordinary amounts of effort to planning, implementing, and preparing a public report on this expert gathering. Additional efforts will be necessary.

42. But for President Trump's actions, Archaeology Southwest would focus its resources and quarterly magazine on other areas and projects. Archaeology Southwest has also diverted the time and effort of its staff as well as its financial resources to raising awareness for the Bear Ears National Monument – actions that would be unnecessary if its national monument designation had not been illegally revoked by President Trump. Because it is a small non-profit organization, the diversion of resources has a significant effect on Archaeology Southwest's ability to carry out its mission of preservation archaeology for other areas in need of protection.

Patagonia Works

43. Patagonia Works ("Patagonia") is an outdoor apparel company with a 40-year history of environmental conservation and activism. Protecting and preserving the environment is a core business tenet as reflected in Patagonia's mission statement: "Build the best product, cause no unnecessary harm, use business to inspire and implement solutions to the environment crisis." The company's specific public benefit purposes of business, conservation and social equity are recognized and mandated by California law because Patagonia is a California benefit corporation. Cal. Corp. Code §§ 14600 *et seq.* See Patagonia Works, Restated Articles of Incorporation (filed with Ca. Sec'y of State, Oct. 10, 2013). Among other things, Patagonia is legally required to: (i) contribute one-percent (1%) of its annual net revenue to non-profit charitable organizations that promote environmental conservation and sustainability; (ii) create a material positive impact on society and the environment, and (iii) consider the impact of any

action on its workforce, customers and the environment. Patagonia's corporate headquarters are located in Ventura, California.

44. Consistent with its statutorily recognized specific public benefit purposes, Patagonia has donated more than \$89 million to thousands of grassroots environmental groups, with more than \$7 million in grants made in 2016 alone. In addition to providing funding to these groups, Patagonia has invested substantial company resources to amplify their message, using its own marketing platforms and employee time to advocate for their shared conservation goals. Patagonia has also provided tactical support for the groups it funds, including hosting a bi-annual "Tools for Grassroots Activists" conference, where it brings together environmental nonprofits with advocacy experts to train nonprofit employees on executing their mission.

45. Many of the groups receiving Patagonia's support over the past forty years have worked to protect threatened wild places and other special public landscapes in their local communities, including through national monument designations. These groups have galvanized local support for the designations that now ensure the protection of the following national monuments: (1) the Basin and Range National Monument in Nevada; (2) the Berryessa Snow Mountain National Monument in California; (3) the Castle Mountains National Monument in California; (4) the Mojave Trails National Monument in California; (5) the Sand to Snow National Monument in California; (6) Gold Butte National Monument in Nevada; and (7) Bears Ears National Monument in Utah.

46. Patagonia has a long history in the Bears Ears area because it provides some of the best rock climbing in North America. Patagonia's employees have visited Bears Ears numerous times for various purposes, including but not limited to, product testing, marketing, professional training, fitness, education, recreation, spiritual and aesthetic enjoyment, and other

purposes. Bears Ears is used for similar purposes by Patagonia's customers and sponsored athletes. Patagonia's workforce and many of its customers intend to visit Bears Ears in the future.

47. In 2013, recognizing the Bears Ears area as one under threat from development that would materially alter the landscape and irreparably harm the cultural objects inexorably linked to the land, Patagonia became directly engaged in the effort to preserve and protect it. Since that time, Patagonia has collaborated with and provided grants to groups supporting the creation and preservation of a Bears Ears national monument.

48. Patagonia also dedicated substantial resources to creating, and now preserving, the national monument designation and educating the public on the unique and unrivaled natural setting of the Bears Ears area, as well as the threats posed to natural and cultural resources the area contains. This effort included the production of the 2015 film "Defined by the Line," which followed Josh Ewing of Friends of Cedar Mesa as he described the unique and threatened features of the region and depicted oil and gas development threats, and the 2017 interactive film allowing viewers to tour Bears Ears and experience the landscape that is preserved within the monument to build awareness of and support for the monument. Patagonia also advocated for creating a national monument at Bears Ears through its marketing channels, including its company website, on its social media platforms that have several million followers, and through its catalogs and company blog.

49. Patagonia's advocacy efforts supporting the protection of Bears Ears also include organizing phone, social media and letter-writing campaigns, and meeting with state and federal government officials, including staff at the U.S. Department of the Interior, BLM, and the White House Council on Environmental Quality, as well as Utah's governor and congressional

representatives. Patagonia's CEO, Rose Marcario, and the Outdoor Industry Alliance brought together industry leaders and companies to present a unified industry position in support of Bears Ears. The company's founder, Yvon Chouinard, penned opinion pieces in the *Los Angeles Times* and *Salt Lake Tribune* supporting Bears Ears' monument designation and the preservation of public lands. Patagonia has had to, and must now continue to, divert resources from ongoing and future strategic priorities that have, and will continue to, impair Patagonia's ability to expand upon its mission and its specific public benefit purposes as a benefit corporation. Patagonia's executives and many others have redirected their time and attention from other corporate goals and priorities to the effort to preserve the Bears Ears National Monument.

50. Patagonia will suffer direct and immediate injury from the revocation of the designation of the landmarks, structures, and objects of the Bears Ears National Monument. By virtue of its long history in the region, its statutory purposes and obligations as a California benefit corporation that require Patagonia to use its business to conserve public lands like Bears Ears, its substantial investment of financial support, and employee time, into the establishment and defense of the Bears Ears National Monument, the revocation of the Bears Ears National Monument and will cause Patagonia to suffer an immediate and irreparable injury. As a result of President Trump's actions, Patagonia will be forced to divert more resources away from other organizational activities in support of conservation and social equity and towards protection and restoration of the objects comprising the Bears Ears National Monument.

51. Patagonia's employees and sponsored athletes regularly visit the region to climb, run, and explore areas now protected by the Bears Ears National Monument. The objects of historic and scientific interest comprising the Bears Ears National Monument are critical to the use and enjoyment of Patagonia's employees and sponsored athletes.

The Access Fund

52. The Access Fund (“Access Fund” or “AF”) has a dual mission to create, protect, and enhance access to rock climbing areas nationwide, and to conserve the climbing environment. To achieve its conservation mission, AF encourages and promotes environmental stewardship within the nation’s rock climbing community and also engages in specific land management issues that threaten to affect the environmental quality of the nation’s climbing areas.

53. AF is a non-profit organization exempt from taxation under 26 U.S.C. § 501(c)(3) and an accredited land trust representing the interests of millions of climbers and mountaineers nationwide. AF is headquartered in Boulder, Colorado.

54. AF is the largest U.S. climbing advocacy organization with approximately 15,000 members and 100 local affiliates, including the Friends of Indian Creek, which was established to focus on stewardship projects within the Bears Ears National Monument. AF provides climbing management expertise, stewardship, project-specific funding, and educational outreach. Utah is one of AF’s largest member-states. AF members from the State of Utah and across the country regularly climb in the Bears Ears National Monument.

55. For nearly twenty years, AF’s policy program has engaged in land management issues within the State of Utah. AF’s efforts in Utah include participating as a leading stakeholder in the BLM Monticello Field Office’s Indian Creek Corridor planning process, as well as advocating for climbing interests for three years during attempts to pass Utah Congressman Bishop’s Public Lands Initiative.

56. The Access Fund also employs six professional trail builders and conservation specialists (“AF Conservation Team”) to help local climbing communities assess impacts and

climbing area conservation needs, address general conservation needs, and provide training on stewardship planning and best practices for keeping their climbing areas healthy. The AF Conservation Team has spearheaded and worked on numerous stewardship projects within the Bears Ears National Monument, resulting in camping and parking improvements, the installation of toilets, and the construction and maintenance of climbing access trails.

57. AF staff dedicated hundreds of hours engaging with a wide range of stakeholders, including tribal interests, local government, the conservation community, and recreation groups to advocate for permanent protection for the Bears Ears region through national monument designation. This collaborative process resulted in the Bears Ears Inter-Tribal Coalition submitting a letter to the Secretary of the Interior endorsing the inclusion of climbing as a legitimate use of monument lands in the presidential proclamation. AF later submitted its own letter to the Secretary of the Interior formally endorsing the establishment of a Bears Ears National Monument and advocating for the inclusion of climbing as a legitimate use of monument lands in the presidential proclamation. Ultimately, for the first time in history, President Obama expressly mentioned rock climbing as one of the recreational opportunities to be protected through the establishment of the Bears Ears National Monument.

58. AF members regularly visit the Bears Ears region to climb, hike, camp, canyoneer, and explore in the areas now protected by the Bears Ears National Monument. In addition to the beauty and solitude afforded by the Bears Ears region, AF members enjoy visiting and viewing the vast cultural resources contained in the Bears Ears region, which contribute significantly to their spiritual and aesthetic enjoyment of the area. Thus, the objects of historic and scientific interest comprising the Bears Ears National Monument are critical to AF members' use and enjoyment of the National Monument.

The National Trust for Historic Preservation

59. Plaintiff the National Trust for Historic Preservation in the United States (the “National Trust”) is a private charitable, educational, non-profit corporation chartered by Congress in 1949 to protect and defend America’s historic resources, to further the historic preservation policy of the United States, and to facilitate public participation in the preservation of our nation’s heritage. *See* 54 U.S.C. § 312102.

60. The mission of the National Trust is to provide leadership, education, and advocacy to save America’s diverse historic places and revitalize our communities. The statutory powers of the National Trust include the power to bring suit in its corporate name. *Id.* § 312105(c). Consistent with its congressional charter and its statutory powers, the National Trust has participated in numerous actions to enforce federal laws that protect historic and cultural resources, including actions to protect national monuments.

61. The National Trust is headquartered in Washington, D.C., has a number of field offices around the country and twenty-seven Historic Sites that are open to the public across the United States. The National Trust has more than one million members and supporters around the country.

62. For more than a decade, the National Trust has been intensively involved in and has contributed substantial funding to protect cultural resources within Bears Ears and to support the effort to designate the Bears Ears National Monument. For example, the National Trust has made grants totaling approximately \$50,000.00 to support research projects in areas within Bears Ears, including providing funding to BLM that was used for stabilizing Chacoan walls in Arch Canyon. The National Trust helped fund a publication called “*Cliff Dwellers of Cedar Mesa*” intended to increase public awareness and understanding of the history of the Bears Ears area.

63. The National Trust also commissioned additional research within the past decade, including Class I cultural resource surveys for Cedar Mesa, and the National Trust prepared a heritage and eco-tourism report. The National Trust has also provided technical assistance and support to grassroots groups, and has undertaken efforts to educate the public and policymakers about the history and significance of the Bears Ears National Monument and the threats to its preservation. In September 2014, the National Trust designated the area that later became Bears Ears National Monument as a National Treasure, and in September 2016 Bears Ears was named to the National Trust's annual list of "America's 11 Most Endangered Historic Places." These designations helped to build public awareness of the cultural resources at Bears Ears.

64. Members of the National Trust regularly visit the Bears Ears region to hike, camp, and explore in the areas within the Bears Ears National Monument. The objects of historic and scientific interest within the Bears Ears National Monument are critical to the members' use and enjoyment of the monument.

The Society of Vertebrate Paleontology

65. The Society of Vertebrate Paleontology ("SVP") is the world's largest paleontological organization. SVP's mission is four fold: (1) to promote and advance the science of vertebrate paleontology around the world; (2) to serve the common interest of and facilitate cooperation between all persons concerned with the history, evolution, ecology, comparative anatomy, and taxonomy of vertebrate animals, as well as the field occurrence, collection, and study of fossil vertebrates and the stratigraphy of the beds in which they are found; (3) to support and encourage the discovery, conservation, and preservation of vertebrate fossils and fossil sites; and (4) to foster scientific, educational, and personal appreciation and understanding of vertebrate fossils and fossil sites by its paleontologists and the general public.

66. SVP is a non-profit organization exempt from taxation under 26 U.S.C. § 501(c)(3). It is incorporated under the laws of California and headquartered in Bethesda, Maryland.

67. SVP's membership includes more than 2,200 scientists, students, artists, and other individuals interested in the science of vertebrate paleontology across the United States and abroad.

68. Founded in 1940, SVP has been a leader in the paleontological community for nearly eighty years. It holds an annual scientific conference, publishes journals and a memoir series of vertebrate paleontological research, engages in education and outreach, and participates in activities relating to the preservation of scientifically important vertebrate paleontological resources.

69. SVP has been advocating for decades to conserve public lands as a means of ensuring access to and protection of paleontological resources. Beginning in 1991, SVP successfully argued against bills in the United States Senate that would have permitted commercial collecting on public lands, and SVP continued to work with Congress and executive agencies to increase protections for vertebrate fossils. In 2009, SVP was instrumental in passing the Omnibus Public Land Management Act of 2009.

70. SVP and its members have devoted substantial time and resources to the protection of paleontological resources within the Bears Ears National Monument. SVP especially focused its advocacy efforts on explicit recognition of paleontology as a value to be protected by the monument designation. As the organization learned through its experience with the designation of the Grand Staircase-Escalante National Monument, that recognition prompts federal agencies to prioritize paleontological research over other uses of the land, and it enhances

funding opportunities for research through the National Landscape Conservation System.

71. SVP members regularly visit the Bears Ears National Monument to conduct research on paleontological resources within the boundaries described by Proclamation 9558. SVP members have also published extensively on paleontological research within the area of the Bears Ears National Monument and have done so since at least 1965. In collaboration with the BLM, SVP members have also participated in educational outreach activities about the paleontological research at the Bears Ears National Monument before and after its designation. The objects of historic and scientific interest within the Bears Ears National Monument are critical to the members' present and future research within the National Monument.

II. Defendants

72. Defendant Donald Trump is the President of the United States. In his official capacity, he signed and issued the Revocation Proclamation revoking and replacing the Bears Ears National Monument. The President resides and conducts his duties in Washington, D.C.,

73. Defendant Ryan K. Zinke is the Secretary of the United States Department of the Interior. In his official capacity, he is charged with ensuring that the Department of the Interior and its constituent agencies, including BLM, fulfill their duties. These duties include management of the Bears Ears National Monument in accordance with the mandates of the Omnibus Public Land Management Act of 2009 and Proclamation 9558. The Secretary of the Interior resides and conducts his duties in Washington, D.C.

74. Defendant Sonny Perdue is the Secretary of the United States Department of Agriculture. In his official capacity, he is charged with ensuring that the Department of Agriculture and its constituent agencies, including the U.S. Forest Service, fulfill their duties. These duties include management of areas within the Bears Ears National Monument in accordance with law and Proclamation 9558. The Secretary of Agriculture resides and conducts

his duties in Washington, D.C.

75. Defendant Brian Steed is the Deputy Director, Programs and Policy, of the Bureau of Land Management. In his official capacity, he exercises the authority of the Director of the Bureau of Land Management and is charged with ensuring that BLM fulfills its duties. These duties include management of the Bears Ears National Monument in accordance with the mandates of the Omnibus Public Land Management Act of 2009 and Proclamation 9558. Upon information and belief, the Deputy Director, Programs and Policy, of the Bureau of Land Management resides and conducts his duties in Washington, D.C.

76. Defendant Tony Tooke is the Chief of the United States Forest Service. In his official capacity, he is charged with ensuring that the United States Forest Service fulfills its duties. These duties include the management of areas within the Bears Ears National Monument in accordance with law and Proclamation 9558. The Chief of the United States Forest Service resides and conducts his duties in Washington, D.C.

LEGAL FRAMEWORK

77. The Property Clause of the United States Constitution states that “[t]he Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States[.]” U.S. Const. art. IV, § 3, cl. 2. The United States Constitution thus grants Congress the exclusive authority for regulation of public lands. Absent a congressional delegation under the Property Clause, the President lacks any authority over public lands.

78. The Take Care Clause of the United States Constitution states that the President “shall take Care that the Laws be faithfully executed[.]” U.S. Const. art. II, § 3, cl. 5.

79. The Antiquities Act provides that “[t]he President may, in the President’s

discretion, declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments.” 54 U.S.C. § 320301(a).

80. The Antiquities Act also states that “[t]he President may reserve parcels of land as a part of the national monuments. The limits of the parcels shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.” 54 U.S.C. § 320301(b).

81. The Antiquities Act does not authorize the President to revoke the national monument status of landmarks, structures, and objects previously designated as such.

82. The Antiquities Act does not authorize the President to modify the reservation of land for a national monument, *e.g.*, land use restrictions, in such a way as to deprive the landmarks, structures, and objects comprising the monument of proper care and management.

83. The Antiquities Act does not authorize the President to modify the parcels of land reserved for a national monument in such a way as to make the reservation incompatible with the proper care and management of landmarks, structures, and objects comprising the monument.

84. The Omnibus Public Land Management Act of 2009 provides that all lands within national monuments administered by BLM become part of the National Landscape Conservation System. 16 U.S.C. § 7202(b)(1)(A).

85. The Omnibus Public Land Management Act of 2009 commands the Secretary of the Interior to manage all lands within the National Landscape Conservation System in accordance with any applicable law (including regulations) relating to any component of the system and in a manner that protects the values for which the components of the system were designated. *Id.* § 7202(c).

FACTS

I. The Creation of the Bears Ears National Monument

86. On December 28, 2016, President Barack Obama signed Proclamation 9558 establishing the Bears Ears National Monument. 82 Fed. Reg. at 1139.

87. The Bears Ears National Monument, which is located in the southeastern corner of Utah, encompasses a wide variety of historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest situated on approximately 1.35 million acres of federal land. This federal land includes parts of the Manti-La Sal National Forest managed by the United States Forest Service and other land managed by the Bureau of Land Management.

88. The area that makes up the Bears Ears National Monument under Proclamation 9558 has played an integral part in the long history of the West. As early as 13,000 years ago, mobile groups known as the Clovis people hunted along the cliffs and in the canyons of the area, leaving tools and projectiles behind. 82 Fed. Reg. at 1139. Hunters and gatherers followed as far back as 8,500 years ago, succeeded by the Ancestral Puebloans 2,500 years ago. Other peoples such as the Fremont, Numic- and Athabaskan-speaking hunter-gatherers, and the Ute, Navajo, and other Native peoples have used and relied on this area. *Id.*

89. The landscape reflects the marks of these peoples, with petroglyphs and pictographs dating back at least 5,000 years. *Id.* And “[t]he area’s cultural importance to Native American tribes continues to this day.” *Id.* at 1140.

90. Proclamation 9558 sets forth a wide variety of objects of historic and scientific interest as a result of the objects’ cultural importance. These objects include “[a]bundant rock art, ancient cliff dwellings, ceremonial sites, and countless other artifacts [that] provide an extraordinary archaeological and culture record[.]” *Id.* at 1139. That record contains, among other items, tools, projectile points and other weapons, baskets, pottery, family dwellings,

granaries, kivas, towers, villages, roads, Moki steps carved into canyon walls, petroglyphs, pictographs, and Navajo hogans. *See id.* at 1139-40.

91. These objects also include unique natural formations that Native American tribes have tied to their stories of creation, of danger, of protection, and of healing. *Id.* at 1140. And the ecological resources of the area provide medicinal and ceremonial plants, edible herbs, and crafts. *Id.* Moreover, Native American knowledge of those ecological resources itself provides a resource for managing the landscape on behalf of future generations. *Id.*

92. Other objects of historic and scientific interest within the Monument played a central role in the Euro-American development of the West. *Id.* Observers of the Mormon faith traced their route through the area, “smooth[ing] sections of the rock surface and construct[ing] dugways and other features still visible along their route.” *Id.* Not to be outdone, outlaws like Butch Cassidy and the Sundance Kid used a complex trail network “to avoid detection.” *Id.*

93. The National Monument also consists of objects that are landscape in scale and beyond the interaction of humans with the landscape: The area offers “stunning geology,” extensive paleontological resources, and innumerable ecological resources. *Id.* at 1140-41. The landscape and geography includes cliffs, canyons, desert, mesas, mountains, meadows, forests, grasslands, rivers, ridges, rock formations, stone spires, hoodoos, and, naturally, the buttes that give the Bears Ears area its name. *Id.* at 1139-42.

94. The designated objects of the Bears Ears National Monument also include habitat supporting plant life of scientific, cultural, and ecological significance, including many species or subspecies of trees, shrubs, yucca, cacti, grasses, and wildflowers. In particular, the area offers a wide diversity of soils and microenvironments that can support a breadth of flora and fauna. *Id.* at 1141-42.

95. The National Monument protects habitat supporting animal life of scientific, cultural, and ecological significance, including mule deer, elk, bighorn sheep, foxes, bobcats, mountain lions, eagles, falcons, hawks, owls, and bats. *Id.* at 1142.

96. Paleontological evidence of past landscapes and life are also preserved in Proclamation 9558. “The paleontological resources in the Bears Ears area are among the richest and most significant in the United States, and protection of this area will provide important opportunities for further archaeological and paleontological study.” *Id.* at 1141. There are a wealth of fossil resources in the following areas of the National Monument: Arch Canyon, Comb Ridge, the Valley of the Gods, Indian Creek, and the Chinle, Wingate, Kayenta, and Navajo Formations. *Id.*

97. The designation of the Bears Ears National Monument preserves critical values connected with these numerous, unique landmarks, structures, and objects of scientific, cultural, and ecological significance, and with culturally important and interconnected landscape across 1.35 million acres of federal land. These values include at least:

- a. preservation and appreciation of an extraordinary archaeological and cultural record, *see* 82 Fed. Reg. at 1139;
- b. the landscape’s sacredness to the Tribes and its continuing cultural importance to their members, *see id.*;
- c. preservation and appreciation of ancient artistry and architecture, *see id.*;
- d. opportunities to study the landscape’s stunning geology, *id.* at 1140;
- e. preservation and appreciation of paleontological resources, *id.* at 1141;
- f. appreciation of the landscape’s visual and auditory aesthetic value, *id.*;

- g. preservation of the landscape's ecological resources and systems, which provide habitat, water-filtering, hunting, pasturing, and other goods, *see id.* at 1141-42;
- h. enjoyment of the landscape through outdoor recreation, *id.* at 1143;
- i. economic opportunity through travel and tourism, *id.*; and
- j. recognition of the importance of tribal participation in the care and management of the objects identified in Proclamation 9558 and a commitment to ensuring that management decisions affecting the Bears Ears National Monument reflect tribal expertise and traditional and historical knowledge, *see id.* at 1144.

98. To protect these values, Proclamation 9558 reserved lands from certain uses and imposed certain conditions and directives in that reservation. *See id.* at 1143.

99. Most notably, President Obama established a Bears Ears Commission composed of one representative from each of the Navajo, Hopi, Zuni, Ute Indian, and Ute Mountain Ute Tribes (the Tribes, as referenced above). *Id.* at 1144. The Secretaries of the Interior and Agriculture must “meaningfully engage the Commission” or its successor entity in the development of management plans for and management of the Bears Ears National Monument. *Id.* The Secretaries must particularly “carefully and fully consider integrating the traditional and historical knowledge and special expertise” of the Commission. *Id.*

100. Proclamation 9558 established a boundary encompassing 1.35 million acres of federal land and withdrew all federal lands within the Bears Ears National Monument from all forms of entry, location, selection, sale, or other disposition under the public land laws, including mining laws, or the laws applicable to the United States Forest Service. *Id.* at 1143.

101. Proclamation 9558 also protected lands within Bears Ears National Monument from oil and gas leasing and development. *Id.* at 1143. The Mineral Leasing Act of 1920,

which governs oil and gas leasing on federal land, excludes from mineral leasing land designated as a national monument. 30 U.S.C. § 181. Applying this authority, Proclamation 9558 mandated that all federal public land within the National Monument was “appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws . . . and from disposition under all laws relating to mineral and geothermal leasing.” 82 Fed. Reg. at 1143. As a result, the proclamation protects the entirety of the over 1.35 million-acre designation and permanently withdraws it from future oil and gas leasing and development.

102. Under Proclamation 9558, the Secretary of the Interior and the Secretary of Agriculture are responsible for the management of the Bears Ears National Monument through the Bureau of Land Management and the United States Forest Service, respectively. *Id.*

103. The Secretary of the Interior is responsible for managing those parts of the Bears Ears National Monument not contained within the boundaries of the National Forest System. All such lands within the Secretary’s responsibility are to be managed as part of the National Landscape Conservation System. *Id.*

104. Under Department of the Interior policy, all National Conservation Lands must be managed “to protect the values for which they were designated, including, where appropriate, prohibiting uses that are in conflict with those values.” Ken Salazar, Sec’y of the Interior, Order 3308: Management of the National Landscape Conservation System, ¶ 4a (2010). The same policy directs that National Conservation Lands, including national monuments, “shall be managed as an integral part of the larger landscape[.]” *Id.* ¶ 4b.

105. Under BLM policy, the agency will take a variety of actions to incorporate the values of a national monument designation and implement the commands of the Omnibus Public

Land Management Act of 2009. *See* BLM Manual 6220: National Monuments, National Conservation Areas, and Similar Designations, ¶ 1-1 (Jan. 25, 2017). These actions include:

- a. managing national monuments to conserve, protect, and restore nationally significant landscapes, *see id.* ¶ 1-6.A.1;
- b. managing discretionary uses in a manner consistent with the protection of a monument's values, including prohibiting such uses where necessary, *see id.* ¶ 1-6.A.2;
- c. inventorying and monitoring the objects and values for which a national monument was designated, *see id.* ¶ 1-6.A.3;
- d. managing valid existing rights and other non-discretionary uses in a manner that mitigates, to the greatest extent possible, impacts to the objects and values for which a monument was designated, *see id.* ¶ 1-6.A.4;
- e. engaging the public on monument lands through education, interpretation, partnerships, and volunteer and job opportunities, *see id.* ¶ 1.6.A-5;
- f. fostering active volunteer programs for monuments to enhance a public sense of stewardship and to accomplish high-priority work, *see id.* ¶ 1.6.A.6;
- g. utilizing the best available science to manage monuments, *see id.* ¶ 1.6.A.7;
- h. appointing a manager for each new monument who has decision-making and supervisory authority and whose primary duty is to manage the monument, *see id.* ¶ 1.7.D.3;
- i. clearly identifying objects and values described in the proclamation during land use planning, and, where those objects and values are described in broad

- categories, identifying the specific resources within the monument that fall into those categories, *see id.* ¶ 1.12.G.4.a;
- j. developing and sustaining diverse partnerships dedicated to conserving, protecting, restoring, and interpreting national monuments, *see id.* ¶ 1.14.J.1;
 - k. supporting formalized partnership agreements, such as Friends' Groups, for each monument, *see id.* ¶ 1.14.J.2;
 - l. providing access for recreational opportunities within a national monument, where recreational values are identified in the proclamation, and conserving, protecting, and restoring those values, *see id.* ¶ 1.14.K.1;
 - m. promoting national monuments as sites for scientific research, *see id.* ¶ 1.15.M.2; and
 - n. developing and updating science plans for each monument, with particular attention to organizing scientific reports and compiling and synthesizing prior research, *see id.* ¶ 1.15.M.3.f.

106. The Secretary of Agriculture is responsible for managing those parts of the Bears Ears National Monument contained within the boundaries of the National Forest System. All such lands within the Secretary's responsibility are to be managed as part of the Manti-La Sal National Forest. 82 Fed. Reg. at 1143.

107. As part of their management responsibilities, the Secretary of the Interior and the Secretary of Agriculture must, "to the maximum extent permitted by law and in consultation with Indian tribes, ensure the protection of Indian sacred sites and traditional cultural properties in the monument and provide access by members of Indian tribes for traditional cultural and customary uses[.]" *Id.* at 1145. These traditional uses include "collection of medicines, berries

and other vegetation, forest products, and firewood for personal noncommercial use in a manner consistent with the care and management of the objects” comprising the Monument. *Id.*

108. The Secretaries must together prepare a transportation plan for the Bears Ears National Monument “[f]or the purposes of protecting and restoring” those same objects. *Id.* at 1145. Under this plan, “motorized and non-motorized mechanized vehicle use shall be allowed only on roads and trails designated for such use, consistent with the care and management of such objects.” *Id.* “Any additional roads or trails designated for motor vehicle use must be for the purposes of public safety or protection of such objects.” *Id.*

109. As described in Proclamation 9558, the Bears Ears National Monument contains objects of historic and scientific interest that are integral to our identity as a nation and should, accordingly, be protected for the public good consistent with the authority that the Antiquities Act grants the President to so designate these areas.

II. The Process Leading to Creation of the Bears Ears National Monument

110. The recent designation of the Bears Ears National Monument through Proclamation 9558 is the product of years of public advocacy and engagement by Plaintiffs, tribal nations, and other groups with interests in protecting the cultural, historic, and ecological heritage of southeastern Utah.

111. Members of Native American tribes with ties to the southeastern Utah area began organizing a proposal for protection of the Bears Ears area in 2010. Bears Ears Inter-Tribal Coalition, *Proposal to President Barack Obama for the Creation of Bears Ears National Monument* 3 (2015), <http://utahdinebikeyah.org/wp-content/documents/Bears-Ears-Inter-Tribal-Coalition-Proposal-10-15-15.pdf>.

112. In 2011, the President of the Navajo Nation sent a letter to then-Secretary of the Interior Ken Salazar proposing a new national monument protecting the Bears Ears area. The

Navajo Nation is located in northwestern New Mexico, northern Arizona, and Southeastern Utah.

113. By mid-2013, Utah Diné Bikéyah had conducted more than 70 interviews of Native elders and experts to understand traditional cultural uses in San Juan County, Utah. UDB also carried out research from all seven Utah Chapter Houses (local government entities of the Navajo Nation), held dozens of community meetings on this issue, obtained tens of thousands of statements of support, developed GIS data of the area for its decision support tool, and held several gatherings of the Tribes at Bears Ears to discuss land protection strategies.

114. In 2013, UDB and the Navajo Nation presented a proposal to the San Juan County Commission for a national conservation area to be jointly managed by Tribal Nations. This proposal anticipated the enactment of a federal Public Lands Initiative program in which the County would play a role. Congress never enacted the Public Lands Initiative, and the San Juan County Commission did not respond to the proposal. In fact, the San Juan County Commission later advocated for the creation of an “energy zone” across a vast swathe of the Bears Ears area.

115. In September 2014, the Hopi Tribe, located in Arizona, petitioned President Barack Obama and the Utah congressional delegation for designation of the Bears Ears region as a national conservation area or a national monument. The Hopi Tribe emphasized the cultural importance of the Bears Ears region and explained the need for monument designation since the region’s archaeological, natural, and geographic resources had been degraded by “looting, federal management inadequacies, industrial development,” and “inappropriate all terrain vehicle use.”

116. On November 19, 2014, the All Pueblo Council of Governors, which represents the Pueblo tribes located largely in New Mexico, passed a resolution supporting the “permanent,

long-term protection of cultural resources and sacred sites on public land in the Greater Cedar Mesa region through designation such as a National Conservation Area or a National Monument.”

117. On February 9, 2015, the Hualapai Tribal Council of the Hualapai Tribe in Arizona approved a resolution supporting the designation of the Bears Ears area as a National Conservation Area or a National Monument.

118. In March 2015, the Naabik'í yáti' Committee of the 23rd Navajo Nation Council unanimously approved a resolution supporting UDB's proposal for federal designation of the Bears Ears area as a national conservation area or a national monument. The resolution concluded that designation of the area as a national conservation area or national monument “will provide important consistency and quality to management of these lands,” especially because “protection will be permanent, part of a national system of protected lands that carry strong and clear legal definitions of the primacy of conservation of cultural, historical and ecological values[.]”

119. In April 2015, groups including CLF, Friends of Cedar Mesa, and UDB united their ongoing efforts as a group of supporting organizations to advance and publicize proposals for federal protection of the Bears Ears region.

120. On July 14, 2015, the Tribal Business Committee of the Ute Indian Tribe, located in northeastern Utah, resolved to support the permanent protection of the Bears Ears region. The Committee explained that “Native American traditional and cultural sites need protection from outside threats such as mineral development, indiscriminate off-road vehicle use, and looting.”

121. Also in July 2015, the Assistant Secretary of Indian Affairs for the Department of the Interior, the National Park Service Director, the Deputy Director of the Bureau of Land

Management, and the Deputy Under Secretary for Natural Resources and Environment for the Department of Agriculture attended the 2nd Bears Ears Inter-tribal Gathering. There, the federal officials met with Tribal leaders and representatives from other stakeholders to discuss protection of the Bears Ears area.

122. In October 2015, the Bears Ears Inter-Tribal Coalition released a formal proposal for the designation of the Bears Ears National Monument under the Antiquities Act. This proposal called for a monument encompassing 1.9 million acres, based on the boundaries proposed in the Public Lands Initiative, to be jointly managed by a group of Tribes.

123. On March 7, 2016, the Executive Directors of CLF and Friends of Cedar Mesa, along with their counterparts from five other conservation non-profits, wrote President Barack Obama to express their support for the proposal of the Bears Ears Inter-Tribal Coalition. On the same day, the Zuni Tribal Council passed a resolution supporting “the permanent protection of the Bears Ears region and its cultural and natural resources through a national monument designation[.]”

124. On March 25, 2016, the Hopi Tribal Council approved a resolution supporting “the long term protection of cultural and natural resources and sacred sites on these public lands through a proposal for a Presidential Proclamation designating Bears Ears National Monument.”

125. On June 9, 2016, members of the Utah Tribal Leaders Association passed a joint resolution calling for protection of the Bears Ears area as a national monument.

126. In June 2016, Archaeology Southwest and Friends of Cedar Mesa issued an open letter to President Barack Obama, signed by several hundred professional archaeologists, calling for the protection of artifacts in the Bears Ears area through the Antiquities Act. The archaeologists explained: “The Bears Ears cultural landscape is full of stunning and remarkably

well preserved cliff dwellings. Countless mesa-top pueblos, shrines and ancient roads attest to the tenacity of ancient inhabitants. Internationally important petroglyph and pictograph panels inspire visitors with the artistry of ancient storytellers. Undisturbed burials still cradle the ancestors of many regional Native American tribes. The preservation and density of these cultural resources rival and perhaps exceed those found within many nearby national parks and monuments. With more than 100,000 archaeological sites, the Bears Ears region is filled with exactly the kinds of ‘objects’ the 1906 Antiquities Act was created to protect.” The archaeologists further explained that vandalism and removal of artifacts “continue at an alarming rate, with several dozen incidents in the last two years. Increasing visitation combined with a severe lack of resources for effective management and enforcement also create newer but no less menacing challenges to archaeology in the region.”

127. On July 16, 2016, then-Secretary of the Interior Sally Jewell, the Directors of the Bureau of Land Management and the National Park Service, the Under Secretary for Natural Resources and Environment for the Department of Agriculture, and other federal officials held a public meeting on community preferences for the federal lands at the Bluff Community Center in Bluff, Utah. Over 1,500 citizens attended this meeting, with most of those who spoke supporting permanent protection for Bears Ears. The majority of nearly 600 written comments also supported further federal protection.

128. In October 2016, SVP members and other paleontologists sent a letter to President Obama explaining that the area holds some of the richest and most significant paleontological resources in the United States, many of which have yet to be scientifically examined. These members urged the President to exercise his authority under the Antiquities Act to protect the known and as-yet-undiscovered paleontological resources from collection or destruction; the

members also sought designation to promote scientific research in the area.

129. In November 2016, SVP sent a letter on behalf of the entire organization urging President Obama to protect the paleontological resources within the Bears Ears area. SVP specifically asked that the President recognize the value of promoting paleontological research, and, to that end, SVP provided draft language on the area's paleontological resources for use in a proclamation. Much of the information in Proclamation 9558 about the paleontological resources within the Bears Ears National Monument draws directly from this letter and the October 2016 letter from SVP members and other paleontologists, as well as from information provided in meetings between representatives of SVP and the Departments of the Interior and Agriculture.

130. On November 30, 2016, Archaeology Southwest, Friends of Cedar Mesa, and sixteen other archaeological or historical preservation groups wrote President Obama to explain the need for national monument status to protect the Bears Ears area from "illegal looting, mismanaged recreational use, and inappropriate energy development."

131. By the time of its creation, representatives from at least ten tribal government bodies, thirty local Utah officials, over 500 members of the scientific community, sixty-five national business leaders, 180 health professionals, sixteen religious leaders, and numerous non-profit organizations wrote federal officials to express their support for protection of the Bears Ears area.

III. President Trump's Attempt To Revoke the Bears Ears National Monument Executive Order 13,792

132. The President has repeatedly attributed his decision to revoke the Bears Ears National Monument to requests from Senator Orrin Hatch. When the President signed Executive

Order 13,792, which commenced the review of existing national monuments this past spring, he stated he was signing the Order to “end another egregious abuse of federal power,” and “this massive federal land grab . . . has gotten worse, and worse, and worse and now we’re going to free it up.” White House Office of the Press Secretary, *Remarks by President Trump at Signing of Executive Order on the Antiquities Act*, WhiteHouse.gov (Apr. 26, 2017), <https://www.whitehouse.gov/the-press-office/2017/04/26/remarks-president-trump-signing-executive-order-antiquities-act>. At the recent signing ceremony for the Revocation Proclamation, Senator Hatch stated that he approached President Trump in January 2017 with a request for aid in “fixing” the Bears Ears National Monument. *See President Trump Remarks in Utah*, C-SPAN.org (Dec. 4, 2017), <https://www.c-span.org/video/?438061-1/president-trump-reverses-obama-administration-utah-monuments>. The President agreed to “fix it” “without hesitation,” according to Senator Hatch.

133. On April 26, 2017, President Trump signed Executive Order 13,792, entitled “Review of Designations Under the Antiquities Act.” 82 Fed. Reg. 20,429 (May 1, 2017).

134. The Executive Order commands the Secretary of the Interior to review all presidential monument designations or expansions since January 1, 1996, where the designation covers more than 100,000 acres, where the monument after expansion covers more than 100,000 acres, or where the Secretary determines that the designation or expansion occurred without adequate public outreach. *Id.* Executive Order 13,792 does not explain the basis for the selection of 1996 or 100,000 acres as criteria for determining the monuments reviewed.

135. The Executive Order required the Secretary of the Interior to assess issues outside the scope of the legal parameters of the Antiquities Act. For instance, the Executive Order instructs the Secretary of the Interior to review whether “designated lands are appropriately

classified under the [Antiquities] Act as ‘historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest[.]’” *Id.* (first alteration in original) (quoting 54 U.S.C. § 320301(a)).

136. The Executive Order directs the Secretary of the Interior to provide, within 45 days, an “interim report” on the findings of his review “with respect to Proclamation 9558 of December 28, 2016 (Establishment of the Bears Ears National Monument), and such other designations as the Secretary determines to be appropriate for inclusion in the interim report.” *Id.* at 20,340. The interim report must include recommendations for executive, legislative, or other action with respect to Bears Ears National Monument and any other monument included.

137. Executive Order 13,792 further directs the Secretary of the Interior to provide a “final report” to the President on his review of all designations and expansions. This final report must include recommendations for executive, legislative, or other action with respect to each monument. *Id.*

Secretary Zinke’s Interim Report

138. In response to Executive Order 13,792, the Department of the Interior issued a notice in the *Federal Register* inviting public comment for review by the Secretary. *See* Review of Certain National Monuments Established Since 1996, 82 Fed. Reg. 22,016, 22,016 (May 11, 2017). The notice identified twenty-seven National Monuments subject to the review, including the Bears Ears National Monument. *See id.* at 22,017.

139. The Department of the Interior’s notice did not solicit comments on the need to expand any existing national monument.

140. For the twenty-six monuments besides Bears Ears, the notice set the deadline for comments at July 10, 2017. *See id.* at 22,016. But, for the Bears Ears National Monument, the

notice set the comment deadline at May 26, 2017, a mere fifteen days from its publication. *See id.*

141. UDB, Friends of Cedar Mesa, Archaeology Southwest, CLF, Patagonia, Access Fund, the National Trust, and SVP each submitted at least one comment letter in support of the designation as described in Proclamation 9558.

142. UDB organized a comment-writing drive in which many of its members submitted comments to the Department of the Interior urging the continuation of the Bears Ears National Monument and each providing an explanation of the personal and cultural importance of the monument. *See, e.g.*, Docket ID DOI-2017-0002-114138 (May 26, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-114138>. UDB also filed a separate comment letter requesting an extension of the comment period and explaining that government officials had made little-to-no effort to gather traditional knowledge of the Bears Ears area held by Native Americans that live in and around the land. *See* Letter from Gavin Noyes, Executive Director, Utah Diné Bikéyah, Docket ID DOI-2017-0002-83535, at 1-2 (May 24, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-83535>. Without engaging these stakeholders, the Secretary of the Interior would lack “critical information that may be harmed if the boundary is shrunk.” *Id.* at 1.

143. Friends of Cedar Mesa submitted a comment letter asking Secretary Zinke to retain the current boundaries and protections of the Bears Ears National Monument. *See* Letter from Josh Ewing, Executive Director, Friends of Cedar Mesa, Docket ID No. DOI-2017-0002-81604 (May 24, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-81604>. That letter recounted the seven-year involvement of Friends of Cedar Mesa, and many other local community members, in the movement that eventually culminated with Proclamation 9558. *See*

id. at 1-2. Friends of Cedar Mesa also stressed the need for national monument status to protect the 100,000 estimated archaeological and cultural sites in the Bears Ears area—more than any other national park or national monument. *Id.* at 2-3. The vastness of these resources necessitated the increased management attention, extra legal protections, inclusion of all designated objects and lands reserved, and prevention of new extractive activities mandated by Proclamation 9558. *Id.* at 3-5.

144. Archaeology Southwest submitted a resolution by its board of directors affirming the obligation to maintain the Bears Ears National Monument. *See* Resolution of Board of Directors for Archaeology Southwest in opposition to any efforts to revoke or diminish Bears Ears National Monument, Docket ID DOI-2017-0002-82235, at 1-2 (May 24, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-82235>. This resolution rebutted the assumption behind Executive Order 13,792 that Proclamation 9558 did not follow a thorough process of public discussion and stakeholder engagement. *Id.* at 2. Archaeology Southwest also submitted a letter joined by six other non-profit organizations, including Friends of Cedar Mesa, that urged Secretary Zinke to recognize the scientific, cultural, and economic value protected by the boundaries of the Bears Ears National Monument. *See* Letter from Archaeology Southwest, *et al.*, Docket ID DOI-2017-0002-57625, at 1-2 (Mar. 3, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-57625>.

145. CLF submitted a comment letter explaining the years of local stakeholder engagement that went into the designation of the Bears Ears National Monument. *See* Letter from Edward Norton, Chairman, Conservation Lands Foundation, Inc., Docket ID DOI-2017-0002-90566, at 1-2, 3-4 (May 25, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-90566>. CLF also detailed the extensive cultural, ecological, geological, paleontological,

and other resources that comprise the monument. *Id.* at 1-3. National monument designation is necessary, CLF explained, to prevent extractive uses that will disrupt or destroy these resources, prevent disposition of the land to non-federal entities, deter looting and vandalism, and generally ensure long-term, landscape-level management planning. *Id.* at 2-3.

146. Patagonia submitted a comment letter explaining that, in sharp contrast to the Secretary's review, "the process to establish a National Monument often takes years, if not decades[.]" and that was exactly the case for Bears Ears National Monument. Letter from Yvon Chouinard, Founder, Patagonia, Inc., and Rose Marcario, President & CEO, Patagonia, Inc., Docket ID DOI-2017-0002-133733, at 1 (May 4, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-133733>. Patagonia also informed the Department of the Interior of "the enormous economic benefits of protected public lands for nearby communities," as demonstrated by recent empirical research and by job growth near the Grand Staircase-Escalante National Monument. *Id.* at 3. "Rescinding or shrinking the National Monuments under review[.]" including the Bears Ears National Monument, "would significantly impact the strength of the outdoor recreation economy and limit [Patagonia's] ability to create and sustain jobs." *Id.*

147. Access Fund submitted a comment letter explaining that "the process leading to the Bears Ears National Monument designation adequately incorporated public outreach and coordination with relevant stakeholders, and conforms to the requirements of the Antiquities Act of 1906." Letter from Erik Murdock, Policy Director, Access Fund, Docket ID DOI-2017-0002-94640, at 1 (May 25, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-94640>. In particular, Access Fund explained that its "members from Utah and across the country regularly climb in the Bears Ears National Monument because it is a world-class climbing area

with unique exceptional natural and cultural resource values[,]” and Access Fund provided a map of some of the canyoneering and rock climbing resources most important to its members. *Id.* at 2. Inadequate federal resources and attention, however, endanger these resources. *Id.* Access Fund therefore urged the Department of the Interior to maintain the existing Bears Ears National Monument because “a monument [land management] plan can bring long-overdue landscape-level management to an area threatened by over-use, resource extraction, and a chronic lack of management and agency resources needed to address multiple-use impacts.” *Id.* at 3. Moreover, Access Fund explained the importance of maintaining Proclamation 9558’s explicit recognition of rock climbing as a valued use and the impact of that recognition on the land management process. *Id.* at 3-4.

148. The National Trust submitted a comment letter opposing any reduction or rescission of “protections provided by the existing national monument designation.” Letter from Stephanie K. Meeks, President and CEO, National Trust for Historic Preservation, Docket ID DOI-2017-0002-364407, at 1 (May 25, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-364407>. The National Trust recounted its history of working hand-in-hand with the Utah congressional delegation to promote conservation initiatives within the state, as well as the National Trust’s efforts in support of the designation of the Bears Ears National Monument. *See id.* at 1-3. Furthermore, the National Trust explained that no reductions in the boundary of the monument could be compatible with the proper care and management of the objects designated by Proclamation 9558. *Id.* at 3. For instance, “archaeologists have overwhelmingly confirmed that there are highly significant prehistoric structures and objects throughout the [Bears Ears National] Monument, along with significant paleontological, geologic, and other scientific resources.” *Id.* at 4. Resources are in fact so numerous, the National Trust explained, that

“[r]ather than being conceived of as a collection of individual or noncontiguous historic sites, the lands within Bears Ears are best treated as a collection of interrelated resources, and their historic significance is best understood in the context of the landscape and setting.” *Id.*

149. SVP submitted a comment letter defending the current boundaries of the Bears Ears National Monument and urging an expansion to protect more paleontological resources. *See* Letter from P. David Polly, President of SVP, *et al.*, Docket ID DOI-2017-0002-100908, at 1 (May 25, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-100908>. SVP explained that it had provided significant input to the Department of the Interior on paleontological resources protected by the Bears Ears National Monument. *Id.* at 2. SVP further identified the critical role of national monument status, and especially recognition of paleontology in Proclamation 9558, in promoting research and public understand of “scientifically invaluable” fossils within “[a]ll of the areas of Bears Ears[.]”. *Id.* at 2-3; *see also id.* at 10. Along with a bibliography of supporting research, SVP explained the types and importance of fossils within each of area of the Bears Ears National Monument. *Id.* at 3-5.

150. An independent analysis of the comments submitted found the overwhelming majority support the designation of the Bears Ears National Monument as described in Proclamation 9558. *See* A. Weiss, *Utah residents to Ryan Zinke: Hands off Bears Ears!*, (June 9, 2017), <https://medium.com/westwise/utah-residents-to-ryan-zinke-hands-off-bears-ears-e2684046a3b4>; *see also* A. Weiss, *New analysis shows national monument support dominates public comment period*, Medium.com (May 25, 2017), <https://medium.com/westwise/new-analysis-shows-national-monument-support-dominates-public-comment-period-7550888175e>.

151. Before the close of the comment period for Bears Ears National Monument, Secretary Zinke visited the State of Utah to tour part of the Bears Ears area. On May 8, 2017, he

met with representatives of Friends of Cedar Mesa, who provided him with extensive information on the antiquities within the Bears Ears National Monument. Friends of Cedar Mesa also provided the Secretary with an extensive bibliography of archaeological and paleontological research related to areas within the Monument.

152. On the same day, SVP wrote to Secretary Zinke in order to bring his “attention to the scientifically valuable fossil resources found at the Bears Ears National Monument as you tour the area this week.” SVP encouraged him to visit Valley of the Gods, Cedar Mesa, Honaker Trail, Red Canyon and similar formations, Indian Creek, and the Wingate, Kayenta, and Navajo formations. SVP also offered the services of local members to help inform his visit. SVP did not receive a formal reply to its invitation.

153. On June 10, 2017, before the close of the public comment period for all other monuments, Secretary Zinke issued an interim report on the Bears Ears National Monument. *See* Memorandum from Sec’y Ryan Zinke to President Donald Trump, “Interim Report Pursuant to Executive Order 13792,” DOI.gov at 1 (June 10, 2017) https://www.doi.gov/sites/doi.gov/files/uploads/interim_report_eo_13792.pdf. In just over one page of analysis, the interim report concludes that the boundary of the Bears Ears National Monument should be reduced. *Id.* at 4-5.

154. The interim report discusses only certain subsets of objects of historic or scientific interest designated under Proclamation 9558 and ignores others. The interim report names, for instance, “archeological sites” as objects of historic or scientific interest, *see id.* at 1, but it nowhere mentions paleontological sites, animal species, plant species, or their habitat.

155. And even for the types of objects it does acknowledge, the interim report does not explain where those objects can be found in the land reserved for the National Monument, which

areas of reserved land should be excluded from the National Monument, what changes, if any, have occurred to the objects designated under Proclamation 9558, or what impacts the removal of national monument status would have on those objects. The interim report offers no analysis or record in support of its conclusion, nor does it address any of the substantive comments provided as part of the truncated public comment period.

156. On the same day that it released Secretary Zinke's interim report, the Department of the Interior issued a press release giving public notice that it would extend the comment period on the Bears Ears National Monument to July 10, 2017, despite the fact that Secretary Zinke had concluded in the interim report that the boundaries of the Bears Ears National Monument should be "modified." *See* Press Release, Dep't of the Interior, at 1 (June 10, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-153322>.

Secretary Zinke's Final Report

157. Friends of Cedar Mesa, Archaeology Southwest and Access Fund submitted supplemental comments in response to Secretary Zinke's interim report. These comments reiterated the need to protect the entirety of the landscape and resources within the Bears Ears National Monument.

158. After the issuance of Secretary Zinke's interim report in June, SVP submitted an additional comment defending all non-marine national monuments. *See* Letter from P. David Polly, President of SVP, *et al.*, Docket ID DOI-2017-0002-655559, at 1 (July 9, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-655559>. In this letter, SVP expanded on the need for national monument status, explaining that such status "allows protection of many sensitive paleontological sites and makes it easier for vertebrate paleontologists to conduct scientific research." *Id.* at 2. As SVP members had learned from the

designation of the Grand Staircase-Escalante National Monument, researchers can more readily obtain permits for access to public lands, and, critically, a monument designation preserves “the geological context” of fossil sites even after collection of the fossils. *Id.* at 3. The preservation of this context allows later replication of studies essential to the scientific method. *Id.* And thanks to their landscape-level scale, national monuments preserve this context across a wide variety of locations and topographies, which allows study of a representative sample of past life in the area. *Id.* In sum, “[n]ational monuments provide an almost ideal level of protection because they are more accessible for research than the more heavily protected national parks and are better protected than undesignated public lands.” *Id.* Rescinding the Bears Ears National Monument, SVP explained, would imperil fossil sites, their geological context, and the future research related to both. *Id.* at 4.

159. The government’s website for the national monument review lists over 2.8 million comments received. *See Review of Certain National Monuments Established Since 1996; Notice of Opportunity for Comment*, Regulations.gov (last visited Dec. 6, 2017), <https://www.regulations.gov/document?D=DOI-2017-0002-0001>. Upon information and belief, the vast majority of comments on the Bears Ears National Monument submitted through July 10, 2017, support the designation of the Monument as described in Proclamation 9558.

160. On August 21, 2017, Friends of Cedar Mesa transmitted to the Department of the Interior an exhaustive expert report compiling the current significant archaeological research of the area comprising the Bears Ears National Monument, the subject of Proclamation 9558. This report conclusively demonstrates that current research has identified significant archaeological and cultural resources throughout each of ten sub-regions of the Bears Ears National Monument, including areas excluded by the Revocation Proclamation. Upon information and belief, the

Department of the Interior had available to it the archaeological research comprising the foundation of the Friends of Cedar Mesa expert report at the time Secretary Zinke issued his interim report, but the Department of the Interior and Secretary Zinke did not address the findings contained therein. The Department of the Interior has not provided any substantive response to the content of the report.

161. Upon information and belief, Secretary Zinke transmitted a “draft” final report to President Trump on or about August 24, 2017. That draft report was not immediately made public by the Department of the Interior; instead, it issued a two-page document that purports to summarize Secretary Zinke’s recommendations to the President. *See generally* Report Summary by U.S. Secretary of the Interior Ryan Zinke, DOI.gov, <https://www.doi.gov/sites/doi.gov/files/uploads/monument-report-summary.pdf>. This public summary gives no details about particular monuments but states that “monument status has a potential economic benefit of increased visitation, particularly to service related industries, outdoor recreation industries, and other businesses dependent on or supported by tourism.” *Id.* at 2. The public summary also states that “[c]omments received were overwhelmingly in favor of maintaining existing monuments[.]” *Id.* Opponents of current monuments, the summary notes, were commonly associated with timber, mining, and motorized recreation industries. *Id.*

162. Upon information and belief, the Department of the Interior did not engage in government-to-government consultations with the Tribes on the content of the final report.

163. The Department of the Interior made Secretary Zinke’s final report public on December 5, 2017, one day after President Trump signed the Revocation Proclamation. *See* Dep’t of the Interior, *Secretary Zinke Recommends Keeping Federal Lands in Federal Ownership, Adding Three New Monuments*, DOI.gov (Dec. 5, 2017),

<https://www.doi.gov/pressreleases/secretary-zinke-recommends-keeping-federal-lands-federal-ownership-adding-three-new>. The final report acknowledges that the Bears Ears National Monument contained “cultural and archaeological sites, unique geologic features, and areas important to the practicing of tribal cultural traditions and ceremonies[,]” as well as “areas . . . home to significant recreational opportunities, including hiking, backpacking, canyoneering, mountain biking, and rock climbing.” See Memorandum from Sec’y Ryan K. Zinke to President Donald Trump, “Final Report Summarizing Findings of the Review of Designations Under the Antiquities Act,” at 10 (Dec. 5, 2017), https://www.doi.gov/sites/doi.gov/files/uploads/revised_final_report.pdf. But the report also expressly disparages the monument status of objects designated under Proclamation 9558, stating that the Bears Ears National Monument “contains many objects that are common or otherwise not of particular scientific or historic interest.” *Id.* The final report does not identify the areas of the monument where these objects could be found or describe other characteristics of these objects.

164. The final report also rejects the designation of many of the types of objects under Proclamation 9558. For example, without reference to facts or evidence, the report claims that “[a]dherence to the Act’s definition of an ‘object’ . . . on some monuments was either arbitrary or likely politically motivated[.]” *Id.* at 2. The final report also criticizes designation of “geographic areas, viewsheds, and ecosystems” as objects of historic or scientific interest, and the report suggests that objects should not be designated under the Antiquities Act if there other, similar objects that exist on separate parcels. See *id.* The final report particularly criticizes the designation of landscapes as objects of historic or scientific interest, reserving an entire section for that stance. See *id.* at 7. The final report does not refer to any legal precedent, such as an

updated analysis from the Office of Legal Counsel, U.S. Department of Justice, or prior case law, to support its stance on objects designated under Proclamation 9558.

165. The final report appearing in press reports did not address with any specificity the comments submitted by Plaintiffs.

166. On September 18, 2017, Archaeology Southwest submitted to the Department of the Interior a report based on publicly releasable information demonstrating how the more than 100,000 archaeological sites that are present within the Bears Ears National Monument represent a dynamic cultural landscape that conveys 13,000 years of human history. The Department of Interior provided no substantive response to this submission.

The Revocation Proclamation

167. On December 4, 2017, President Trump signed the Revocation Proclamation. *See Presidential Proclamation Modifying the Bears Ears National Monument*, WhiteHouse.gov (Dec. 4, 2017), <https://www.whitehouse.gov/the-press-office/2017/12/04/presidential-proclamation-modifying-bears-ears-national-monument>.

168. The Revocation Proclamation purports to “modify” the boundaries of the Bears Ears National Monument under Proclamation 9558, leaving two smaller “units” or “areas” to be known as Indian Creek and Shash Jáa. *Id.* Together, these putative units would encompass approximately 201,397 acres, thus removing protections from over 1.1 million acres included in Proclamation 9558 as well as landmarks, structures, and thousands of objects of scientific or historic interest contained on or within those lands. *Id.*

169. The Revocation Proclamation purports to revoke the national monument status of those objects designated by Proclamation 9558 that “are not unique to the monument . . . [or] are not of *significant* scientific or historic interest.” *Id.* (emphasis added). Instead, the

Revocation Proclamation protects only what it considers the “*important* objects of scientific or historic interest” designated as part of the Bears Ears National Monument under Proclamation 9558. *Id.* (emphasis added).

170. The Revocation Proclamation further purports to “modify” the boundaries of the National Monument to be confined to the “smallest area compatible with the proper care and management” of only some, but not all, of the objects designated under Proclamation 9558. The Revocation Proclamation states, for instance, that “[s]ome of the existing monument’s objects, or certain examples of those objects, are not within the monument’s revised boundaries[.]” *Id.* Any lands not contained within the boundaries of the new units will be excluded from the protections of the Antiquities Act.

171. The Revocation Proclamation erroneously asserts that the eliminated areas of the Monument will still be protected under other federal statutes, without any legal analysis as to how these laws provide equivalent, permanent protections akin to national monument status. *Id.*

172. The Revocation Proclamation directs that, within 60 days after December 4, 2017, the excluded areas of the National Monument will be open to “entry, location, selection, sale, or other disposition under the public land laws[.]” “disposition under the laws relating to mineral and geothermal leasing,” and “location, entry, and patent under the mining laws.” *Id.* This directive does not specify how the Bureau of Land Management and the U.S. Forest Service are to implement this directive.

173. The Revocation Proclamation also purports to change the conditions or directives of the land reservation effected under Proclamation 9558. *Id.*

- a. First, the Revocation Proclamation removes the requirement for BLM and USFS to consult the Bears Ears Commission on land management decisions for any

areas not contained within the purported Shash Jáa unit. *Id.*

- b. Second, the Revocation Proclamation adds an additional seat on the Bears Ears Commission for the elected officer of the San Juan County Commission representing District 3, in that officer's official capacity. *Id.*
- c. Third, the Revocation Proclamation authorizes the Secretaries of the Interior and Agriculture to permit motorized and non-mechanized vehicle use on roads and trails designated for such use prior to Proclamation 9558. *Id.*
- d. Fourth, the Revocation Proclamation authorizes the Secretaries of the Interior and Agriculture to permit road and trail maintenance. *Id.*
- e. Fifth, the Revocation Proclamation removes any effect of Proclamation 9558 on livestock grazing. *Id.*
- f. Sixth, the Revocation Proclamation authorizes the Secretaries of the Interior and Agriculture to permit active vegetation management activities in the National Monument. Upon information and belief, these activities can include the use of prescribed burning, wildfire, mechanical equipment, herbicides, or other techniques to destroy or remove naturally occurring vegetation. *Id.*

Impacts of the Revocation Proclamation

174. Upon information and belief, Plaintiffs and their members, directors, officers, employees, or sponsored athletes will suffer direct and immediate injury from the revocation of the designation of the landmarks, structures, and objects of the Bears Ears National Monument, including the following objects:

- a. tens of thousands of historic and pre-historic structures, cliff dwellings, rock art panels (pictographs and petroglyphs), kivas, open service sites, pueblos, towers,

middens, artifacts, ancient roads, historic trails, and other archaeological resources generally located in the vicinity of:

- i. Cedar Mesa, including Grand Gulch;
 - ii. Valley of the Gods;
 - iii. Tank Mesa, Cottonwood Wash, and the Bluff Bench;
 - iv. Bowdie Canyon, Fable Valley, Ruin Park and the Beef Basin area;
 - v. the Dark Canyon complex;
 - vi. the Abajo Mountains and drainages of Allen, Dark, and Chippean Canyons;
 - vii. White Canyon and its many drainages;
 - viii. Mossback Mesa, Red House Cliffs, and Tables of the Sun;
 - ix. the Mancos Mesa and Moqui Canyon;
 - x. the San Juan River corridor, including the Sand Island petroglyph panels;
 - xi. Harts Draw and Lockhart Basin; and
 - xii. the entirety of the Grand Gulch Archaeological District, which is listed on the National Register of Historic Places;
- b. numerous paleontological resources in the vicinity of:
- i. Indian Head Pass;
 - ii. Beef Basin;
 - iii. House Park Butte;
 - iv. Cathedral Butte;
 - v. Jacobs Chair;
 - vi. the Lockhart Basin;

- vii. Indian Creek;
 - viii. Allen Canyon;
 - ix. White Canyon;
 - x. Fry Canyon;
 - xi. Valley of the Gods; and
 - xii. Red Canyon;
- c. numerous recreational objects and sites, including:
- i. 44 of 120 climbing cliffs (which are discrete and documented rock climbing sites that include one or more established climbing routes that ascend a rock outcrop), as well as all 22 named summits in the Valley of the Gods and hundreds of routes in Harts Draw and Lockhart Basin;
 - ii. undocumented or yet-to-be-climbed climbing cliffs;
 - iii. world-class canyoneering routes in White Canyon, Gravel Canyon, Cheesebox Canyon, Hideout Canyon, Fry Canyon, and other drainages of White Canyon;
 - iv. mountain biking trails;
 - v. whitewater paddling river segments;
 - vi. equestrian trails; and
 - vii. hiking and backpacking trails, in particular the iconic Fable Valley trail and the Dark Canyon trail system, and trails to historic mining and cowboy sites in or around Beef Basin, the Abajos Mountains, and Indian Creek;
- d. numerous geological and ecological objects of cultural, scenic, and scientific

interest, including at least:

- i. Native American hunting and wood- and herb-gathering grounds in the vicinity of Cedar Mesa, Elk Ridge, and the Abajo Mountains;
- ii. the White Canyon complexes;
- iii. towers and sandstone structures in Chimney Park, Hammond Canyon, Dark Canyon, and Lockhart Basin, and especially those in the Valley of the Gods considered spiritually important to the Navajo Nation;
- iv. distinctive arches and natural bridges in many canyons, including Wetherill Arch, Neville's Arch, Polly's Canyon Arch, Bowdie Canyon Window, Causeway Arch, Cliff Dweller's Pasture Arch, and Fable Valley Jug Handle Arch; and
- v. distinctive, endemic subspecies, including mammals, in the Abajo Mountains.

175. Upon information and belief, approximately 73% of documented archaeological sites are found in areas to be removed from the National Monument. (Documented sites are distinct from known sites and existing sites, many of which are unknown to science or management.) For example, the following archaeological sites are excised by the Revocation Proclamation: Two Kiva House, Eight Room Pueblo, Baby Mummy Cave, Baby Mummy Great Road, Bannister Ruin, Battle Panel, BB Ruin, Beam Ruin, Bernheimer Alcove, Best Forgotten Kiva, Big Man Panel, Big Panel, Bird's Nest (also known as Dry Wash Ruin), Cap Rock Ruin, Castle Ruin, Ceiling House, Citadel, Clay Hills Kiva, Collins Cowboy Camp, Cottonwood Falls Great House, Cow Tank, Cradleboard Site, Crawl on Your Belly, Cut-in-Two Cave, Dancing through Time, Dark Horse (also known as Cliff Village), Decker Road, Digging Sticks, Double

Decker Ruin, Et Al Great House, Fable Fortress, Fable Valley Pueblo, Fallen Roof Ruin, Farm House, Flat House, Fortified Mesa, Goat-on-a-Bicycle, Goldbar Panel, Gotta Wear Shades, Granary Row, Green House, Green Mask Site, Grocery Store, Halfway House, Hammond Good House, Harts Horse Panel, High House, large portions of the Hole-in-the-Rock Trail, Horse Panel, Horse Rock Ruin, Jailhouse Ruin, Junction Ruin, Kiva Cave, Knob Ruins, L Pueblo, Ledge Ruin, Lion Track, Little Doll House, Long House, M080 Observatory, Many Hands, Marcia's Stonehenge, Moss Back Rock Art, Mountain Sheep & the Flute Player, Owen's Great House, Owl Kiva, Painted Kiva, Pappy's Pasture, Pass Rock Art Site, Perfect Kiva (Bullet), Perfect Kiva (Slickhorn), Picket Fork, Polly's Island, Polychrome House, Pottery Shine, Rattler Cave, Red and White House, Red Knobbs, Red Lines Panel, Redman, Roof Ruin, Ruin Canyon Tower, Sacred Mesa, Sagsteters Ruin, Sand Dune Site, Sand Island Lower Petroglyph Panel, Sand Island Upper Petroglyph Panel, Scotty's Kiva, Seven Kivas, Shield Cave Ruin, Showstopper, Split Boulder Archaic Panel, Split-Level Ruin, Swallows Nest, Tabernacle Ruin, Tank Mesa Great Road, Telluride Blanket Site, the Hideaway, the Hunting Panel, the Playhouse, the Rincon, Three Fingers, Three Moons Kiva, Tower Ruin, Turkey Pen, Turner's Cabin (historic), Water House, Wetherill Arch Site, Witchy Woman, Wooden Kiva, Wrong-Side Ruin, and Yellow House.

176. The Revocation Proclamation opens areas previously protected by the Bears Ears National Monument to activities in otherwise pristine and undeveloped areas. Upon information and belief, such incompatible uses will result in the destruction and degradation of irreplaceable cultural, historic, and scientific resources from surface disturbance, ecosystem impacts, and waste disposal, among other adverse impacts. While these activities may be subject to certain environmental and wildlife statutes, those statutes will only require procedural reviews,

mitigation and minimization of adverse impacts, and penalties once damage is done, as opposed to monument status which ensures avoidance of all harm. These impacts will threaten current and ongoing use and enjoyment of the objects and land constituting the Bears Ears National Monument, and thus will result in direct injury to the cultural, aesthetic, recreational, spiritual, and scientific interests of the Plaintiffs and to those of the:

- a. officers and board members of Conservation Lands Foundation;
- b. members of CLF's Friends Grassroots Network organizations;
- c. members of Utah Diné Bikéyah;
- d. board members of Friends of Cedar Mesa;
- e. employees of and athletes sponsored by Patagonia;
- f. members of Access Fund;
- g. members of the National Trust; and
- h. members of the Society of Vertebrate Paleontology.

177. In particular, and as a result of President Trump's actions, archaeological and paleontological objects of scientific or historic interest designated as part of the Bears Ears National Monument will receive less legal protection. Upon information and belief, the reduced legal protections will increase looting, vandalism, collection, and "pot hunting" of these archaeological and paleontological objects. Several cases of looting of paleontological sites have been documented over the years. For instance, unknown parties removed the skull of a phytosaur skeleton discovered in Fry Canyon in 2016. Disturbance or removal of such objects directly reduces the scientific, recreational, aesthetic, cultural, and spiritual value of the area to Plaintiffs and their or similar affiliates.

178. Upon information and belief, the Revocation Proclamation will also increase

threats to archaeological, paleontological, and other objects by reducing enforcement resources. Currently, there are only one or two rangers patrolling and monitoring the area. Upon information and belief, monument status for all objects and lands protected or reserved under Proclamation 9558 will increase funding available for the management of the Bears Ears National Monument, which will allow for the hiring of more personnel for monitoring and law enforcement. Thus, the Revocation Proclamation will reduce the amount of funding available to manage the excluded 1.1 million acres, which will reduce the availability of law enforcement personnel, and increase the likelihood that objects within the National Monument will be looted or vandalized.

179. As a result of President Trump's actions, much of the land reserved as part of the Bears Ears National Monument will be open to oil-and-gas leasing. Before Proclamation 9558, areas of the Monument were designated for oil and gas development under the 2016 Moab Master Leasing Plan and the 2008 Monticello Resource Management Plan. Industry has pushed for new drilling sites in many areas of the National Monument. For instance, oil-and-gas developers had already submitted expressions of interest for more than 105,187 acres in or near Bears Ears National Monument since 2013, including 88 requested parcels clustered in and around the northeastern part of the Bears Ears National Monument near Indian Creek. See Center for Biological Diversity, *Analysis of Oil and Gas Industry Interests and Mining Potential on Federal Public Lands within Bears Ears National Monument*, (Aug. 19, 2017), <https://www.documentcloud.org/documents/3985752-Bears-Ears-Oil-Gas-and-Hard-Rock-Mining-Analysis.html>; see also Brian Maffly, "Oil and Gas Industry Will Pounce if Bears Ears Shrinks," *Salt Lake Tribune* (June 19, 2017) <http://archive.sltrib.com/article.php?id=5351997&itype=CMSID>. The Indian Creek area of the

Bears Ears National Monument is widely recognize as a world-class rock climbing area for its sandstone crack climbing. Members or similar affiliates of Plaintiffs' organizations regularly travel to Indian Creek to ascend its cliffs and admire the landscape.

180. The oil-and-gas development allowed by the Revocation Proclamation within the Bears Ears National Monument will harm Plaintiffs and their members or similar affiliates. First, Plaintiffs or their members or similar affiliates must answer efforts by BLM and developers to lease land in Bears Ears National Monument through formal protests to BLM and informal advocacy. Second, oil-and-gas leasing threatens the pristine landscapes of the Bears Ears National Monument. Exploration and development will impair the aesthetic value of the National Monument to Plaintiffs and their members or similar affiliates. Road construction, increased heavy vehicle usage, traffic, drilling, and other energy development activities will corrode the undeveloped areas of the Bears Ears National Monument. Likewise, exploration and development will disturb the soundscape and viewscape in the National Monument. Third, increased private development will diminish the climbing experience for, and recreational value to, Plaintiffs and their members or similar affiliates.

181. As a result of President Trump's actions, and by the very terms of the Revocation Proclamation, areas previously within the boundary of the Bears Ears National Monument will be open to location, entry, and patenting for mining of uranium and other minerals. *See* 30 U.S.C. § 22 (Mining Law of 1872).

182. "Casual use" collection of minerals can immediately begin without any notification to BLM. 43 C.F.R. § 3809.10(a); *see also id.* § 3809.5(1)-(2) (defining "casual use"). More intensive "notice-level" operations may begin within 15 days of submitting notice to BLM. *See id.* § 3809.21(a); *see also id.* § 3809.10(b).

183. The increased exploratory and extractive activities within the boundary of the Bears Ears National Monument will destroy or harm objects of significant scientific or historic interest, including archaeological, paleontological, cultural, and ecological objects. Furthermore, increased mineral development will degrade the scientific, recreational, aesthetic, cultural, and spiritual value of the area through disturbance of the surface soil and ecology, increased noise, harmful impacts to viewsheds, the creation of safety and other conflicts resulting from an increase in industrial traffic and infrastructure development at areas of high aesthetic value and popular recreational use.

184. As a result of President Trump's action, areas within the National Monument's boundary will be open to "casual collection" of common invertebrate and plant paleontological objects designated as part of the Bears Ears National Monument. 36 C.F.R. § 291.12; *see also id.* § 291.5 (defining "casual collecting"). Casual collection can occur immediately as no permit from the United States Forest Service is required. *Id.* § 291.11(a). Disturbance or removal of paleontological objects will directly degrade the National Monument's scientific, recreational, aesthetic, cultural, and spiritual value.

185. Upon information and belief, President Trump's actions will impede paleontological research on the 1.1 million acres excluded from national monument status. First, as those lands will no longer be covered by a proclamation explicitly recognizing the value of paleontology, other uses might receive higher priority in agency planning decisions, with the result that paleontological research permits become more difficult to secure. Second, even if fossils avoid collection or destruction, other uses within the National Monument can harm the geological context critical to scientific replication and understanding. Third, the entirety of the National Monument will no longer be eligible for funding through the National Landscape

Conservation System; for other monuments like Grand Staircase-Escalante, the majority of public funding for paleontology originated with the National Landscape Conservation System. Loss of paleontological research opportunities, and the appreciation for paleontological objects that research provides, directly injures Plaintiffs and their members or similar affiliates.

186. Upon information and belief, President Trump's actions will impede rock climbing and other recreational activities on the 1.1 million acres excluded from national monument status. As those lands will no longer be covered by a proclamation explicitly recognizing the value of rock climbing and other recreational activities, other uses might receive higher priority in agency planning decisions, with the result that access to or other support for these activities becomes more difficult to secure. Loss of or reduction in these activities directly injures Plaintiffs and their members or similar affiliates.

187. As a result of President Trump's actions, areas within the boundary of the Bears Ears National Monument will no longer be managed in a manner that protects the values specified by Proclamation 9558 or be eligible for funding through the National Landscape Conservation System. Moreover, the benefits of Secretarial Order 3308 and BLM Manual 6220 will no longer extend to the 1.1 million acres deprived of national monument status. The loss of these benefits will impair Plaintiffs' organizational interests, as well as the cultural, aesthetic, recreational, or scientific interests of their members or similar affiliates.

188. In particular, excluded lands will no longer be subject to BLM policies to inventory and monitor cultural resources, which in turn result in the development of cultural resource management plans. Completing these plans requires additional cultural resource surveys. Conducting detailed cultural resource surveys in the Bears Ears area is especially important because currently no more than 10 percent of the area has been surveyed for cultural

resources, notwithstanding the extraordinary significance of historic resources in the area. Upon information and belief, monument status for all objects and lands protected or reserved under Proclamation 9558 will increase funding available for the management of the lands within Bears Ears, including surveys to identify, evaluate, and protect cultural resources. Thus, the Revocation Proclamation will reduce the amount of funding available for these activities and will impair Plaintiffs' organizational interests, as well as the cultural, aesthetic, recreational, or scientific interests of their members or similar affiliates.

COUNT I – VIOLATION OF THE ANTIQUITIES ACT
54 U.S.C. § 320301(a)
[All Plaintiffs against All Defendants]

189. Plaintiffs reallege and incorporate by reference the allegations in Paragraphs 1 through Paragraph 188.

190. Plaintiffs have a non-statutory right of action to injunctive and declaratory relief against *ultra vires* actions by Defendants.

191. Section 320301(a) of Title 54 of the United States Code provides that the “President may, in the President’s discretion, declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments.”

192. The Revocation Proclamation revokes the national monument status of numerous historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest designated by Proclamation 9558.

193. Upon information and belief, Defendants other than President Trump are complying with the directives of the Revocation Proclamation and not implementing, and have not implemented, those of Proclamation 9558.

194. Neither § 320301(a) nor any other section of the Antiquities Act authorizes the President to revoke the national monument status of, or the protections for, objects designated under Proclamation 9558, as determined under the discretion of the establishing President. Congress has not delegated to the President the power to revoke the designation of “historic landmarks, historic and prehistoric structures, and other objects of scientific or historic interest” once they have been lawfully proclaimed national monuments. Such power remains reserved for Congress under Article IV, Section 3, Clause 2 of the U.S. Constitution.

195. The Antiquities Act does not authorize the Revocation Proclamation’s action to revoke the designation of landmarks, structures, and objects comprising the Bears Ears National Monument.

196. Defendants’ attempt to revoke the designation of landmarks, structures, and objects comprising the Bears Ears National Monuments is an *ultra vires* action: The Revocation Proclamation exceeds the limited authority to declare national monuments Congress provided to the Executive under the Antiquities Act.

COUNT II – VIOLATION OF THE ANTIQUITIES ACT
54 U.S.C. § 320301(b)
[All Plaintiffs against All Defendants]

197. Plaintiffs reallege and incorporate by reference the allegations in Paragraphs 1 through 196.

198. Plaintiffs have a non-statutory right of action to injunctive and declaratory relief against *ultra vires* actions by Defendants.

199. Section 320301(b) of Title 54 of the United States Code provides that the “President may reserve parcels of land as a part of the national monuments. The limits of the

parcels shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.”

200. The Revocation Proclamation purports to “modify” the reservation of parcels of land that were made a part of the Bears Ears National Monument. This action excludes from the National Monument’s reservation a land area of approximately 1.1 million acres.

201. By excluding vast land areas from the reservation made pursuant to Proclamation 9558, the Revocation Proclamation excludes from the National Monument reservation the landmarks, structures, and objects on those land areas that had been lawfully designated under Proclamation 9558.

202. As a result, the Revocation Proclamation purports to remove these objects from the protection against entry, location, patent, selection, sale, or other disposition, among other protections established by Proclamation 9558. The Revocation Proclamation directs Defendants other than President Trump not to provide such protection to approximately 1.1 million acres of land. Upon information and belief, Defendants are complying with the directives of the Revocation Proclamation and are not implementing, and have not implemented, those of Proclamation 9558.

203. The two “units” comprising the reservation under the Revocation Proclamation are not sufficient for, and thus not compatible with, the proper care and management of the objects designated as part of the National Monument by Proclamation 9558.

204. The Revocation Proclamation also purports to eliminate beneficial conditions and directives of the reservation established by Proclamation 9558 even for the two new “units.” The Revocation Proclamation changes the scope of consultation with and composition of the Bears Ears Commission, allows motorized and non-mechanized vehicle use on roads and trails

designated for such use prior to Proclamation 9558, allows maintenance of roads and trails for such use, and allows active vegetation management activities.

205. The elimination of the reservation conditions and directives established by Proclamation 9558 is not compatible with the proper care and management of the objects designated as part of the National Monument by Proclamation 9558.

206. Neither section 320301(b) nor any other section of the Antiquities Act authorizes the President to “modify” the reservation directives of land or reduce the parcels of land reserved as part of the Bears Ears National Monument in a manner that precludes the proper care and management of the objects protected by Proclamation 9558. Such power remains reserved for Congress under Article IV, Section 3, Clause 2 of the U.S. Constitution.

207. The Antiquities Act does not authorize the Revocation Proclamation’s actions to exclude vast areas of land from the National Monument’s reservation or to eliminate beneficial conditions of that reservation.

208. Defendants’ attempt to alter the reservation of the Bears Ears National Monuments is an *ultra vires* action: The Revocation Proclamation exceeds the limited authority to declare national monuments and reserve the requisite land area that Congress delegated to the Executive under the Antiquities Act.

COUNT III – VIOLATION OF THE SEPARATION OF POWERS
U.S. Const. art. IV, § 3, cl. 2
[All Plaintiffs against All Defendants]

209. Plaintiffs reallege and incorporate by reference the allegations in Paragraphs 1 through 208.

210. The Constitution vests the power to dispose of and regulate the property of the United States solely in Congress. Specifically, the Property Clause provides that “[t]he Congress

shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States[.]” U.S. Const. art. IV, § 3, cl. 2.

211. The Antiquities Act only empowers the President to declare national monuments and does not delegate authority to the President to revoke, abolish, diminish, or replace them. 54 U.S.C. § 320301.

212. Defendants, through the Revocation Proclamation, purport to dispose of and regulate federal property, namely, the landmarks, structures, and objects of historic or scientific interest that comprise the Bears Ears National Monument and the land reserved for that monument, without a delegation of such power from Congress.

213. Defendants, through the Revocation Proclamation, have arrogated to themselves Congress’ exclusive power to dispose of and regulate the property of the United States.

COUNT IV – VIOLATION OF THE TAKE CARE CLAUSE
U.S. Const. art. II, § 3, cl. 5.
[All Plaintiffs against President Trump]

214. Plaintiffs reallege and incorporate by reference the allegations in Paragraphs 1 through 213.

215. The Constitution obligates the President and his agents to “take Care that the Laws be faithfully executed[.]” U.S. Const. art. II, § 3, cl. 5.

216. Defendants Secretary Zinke and Deputy Director Steed have statutory duties to manage parts of the Bears Ears National Monument within the National Landscape Conservation System in a manner that protects the values for which the National Monument was designated. 16 U.S.C. § 7202(c)(2).

217. President Trump has acted to compel Secretary Zinke and Deputy Director Steed to violate their duties to manage the entirety of the Bears Ears National Monument in a manner consistent with the values of President Obama's Proclamation 9558.

218. Specifically, the Revocation Proclamation directs Defendants other than President Trump to cease managing all objects and lands excluded from the National Monument in a manner that promotes, and is consistent with, the values of Proclamation 9558.

219. Additionally, the Revocation Proclamation directs Defendants other than President Trump to cease managing all objects and lands within the two new "units" in a manner that promotes, and is consistent with, the values of Proclamation 9558.

220. By compelling other Defendants to violate their legal duties, President Trump has violated his own constitutional duty to take care that the laws of the United States are faithfully executed.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that this Court:

(a) DECLARE

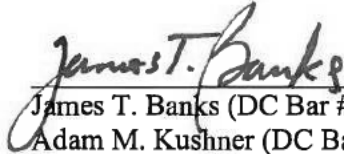
- i. that the Revocation Proclamation is unlawful and an *ultra vires* action to the extent that it purports to revoke the Bears Ears National Monument;
- ii. that, pursuant to the Antiquities Act, the President may not unilaterally revoke the designation of landmarks, structures, or objects, and may not substantially alter the reservation of land, which together comprise a lawfully created national monument;
- iii. that the President's power under the Antiquities Act is limited to:

- A. declaring historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments, and
 - B. reserving, as part of a national monument, the smallest parcels of land compatible with the proper care and management of the objects to be protected;
- iv. that Proclamation 9558 is controlling with respect to the objects comprising the parcels of land reserved as, and the management of the Bears Ears National Monument;
 - v. that all Defendants other than President Donald J. Trump have duties to manage the Bears Ears National Monument to the fullest extent described in, in the manner provided for by, and in a manner that protects the values of Proclamation 9558; must withdraw lands within the Bears Ears National Monument, as described in Proclamation 9558, from all forms of entry, location, selection, sale, or other disposition under the public land laws or laws applicable to the United States Forest Service, from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing; and must not exchange any lands within the Bears Ears National Monument, as described in Proclamation 9558, other than by exchange that furthers the protective purposes of the Monument.
- (b) ORDER Defendants other than President Donald J. Trump to expeditiously comply with all mandates of Proclamation 9558;

- (c) ENJOIN Defendants other than President Donald J. Trump from further actions or inaction inconsistent with Proclamation 9558;
- (d) AWARD qualifying Plaintiffs fees and costs as appropriate under 28 U.S.C. § 2412 or other applicable authority; and
- (e) GRANT Plaintiffs such other and further relief as the Court may deem just and proper.

Dated: December 6, 2017

Respectfully submitted,


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**THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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Case No.

WILDEARTH GUARDIANS
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DEFENDERS OF WILDLIFE
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Washington, D.C. 20036

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as
President of the United States
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

RYAN ZINKE, in his official capacity as Secretary of
the Interior
1849 C Street NW
Washington, D.C. 20240

BRIAN STEED, in his official capacity as the official
exercising the authority of the Director of the
Bureau of Land Management
1849 C Street NW
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SONNY PERDUE, in his official capacity as
Secretary of Agriculture
1400 Independence Avenue SW
Washington, D.C. 20250

TONY TOOKE, in his official capacity as Chief of
the U.S. Forest Service
1400 Independence Avenue SW
Washington, D.C. 20250

Defendants.

COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

INTRODUCTION

1. This case challenges President Donald J. Trump's unlawful proclamation of December 4, 2017, dismantling the Bears Ears National Monument (the Monument) and replacing it with two much smaller, noncontiguous units covering just fifteen percent of the original Monument's area.

2. President Barack Obama designated the Bears Ears National Monument on December 28, 2016, to protect its remarkable archaeological, cultural, and natural values. To safeguard the thousands of irreplaceable archaeological sites and the cultural and ecological integrity of the Monument, among other things, President Obama set aside 1.35 million acres for permanent protection pursuant to the Antiquities Act of 1906, 54 U.S.C. §§ 320301 *et seq.* The creation of the Bears Ears National Monument provided needed protection to a variety of natural and historic treasures, including scenic landscape formations and cultural sites that Native Americans have held sacred for thousands of years.

3. President Trump's unlawful proclamation purports to revoke monument status entirely from eighty-five percent of the Bears Ears National Monument, or 1.15 million acres. President Trump's unlawful proclamation also purports to weaken the legal protections that apply in the two small units that retain their status as national monument lands.

4. President Trump's action is contrary to the Antiquities Act, which authorizes Presidents to create national monuments, but not to abolish them in

whole or in part. Only Congress—not the President—has the power to revoke or modify a national monument. President Trump’s proclamation purporting to dismantle Bears Ears National Monument exceeded his authority and is unlawful.

5. Beginning with Theodore Roosevelt, Presidents have exercised their authority under the Antiquities Act to designate more than one hundred fifty national monuments throughout our country to protect landscapes of extraordinary beauty, as well as irreplaceable and exceptional objects and sites of scientific and historic importance. National monuments include important American icons like the Statue of Liberty in New York, Muir Woods in California, Organ Pipe Cactus in Arizona, and Misty Fjords in Alaska. Many national parks, including Grand Canyon and Zion, began as national monuments. In the 111 years since its enactment, the Antiquities Act has provided lasting and valuable protection to the nation’s cultural, natural, and historic heritage.

6. Following the example set by his predecessors, President Obama relied on the Antiquities Act to establish the Bears Ears National Monument by Proclamation in 2016. *See* Proclamation No. 9558, Establishment of the Bears Ears National Monument, 82 Fed. Reg. 1139 (Dec. 28, 2016) (the 2016 Proclamation). The 2016 Proclamation conferred national monument status and a variety of specific protections on 1.35 million acres of federal public land in southeastern Utah, bordered by Canyonlands National Park to the north and the Navajo Nation to the south. The 2016 Proclamation directed the Bureau of Land Management (the

BLM) and U.S. Forest Service to take specific actions to ensure protection of the scientific and historic objects within the Monument.

7. President Obama based the 2016 Proclamation on information obtained through deliberations, studies, and meetings with Native American tribes, state and local officials, and other stakeholders, as well as an assessment of the important cultural, historic, and scientific resources at risk in the Bears Ears area.

8. The Bears Ears National Monument was the 153rd national monument to be established under the Antiquities Act. It encompasses magnificently scenic federal public lands that have been home to Native American tribes for over a thousand years. Early inhabitants of these lands left remarkable artifacts, including cliff dwellings, granaries, pottery, and rock art, and the lands still have profound cultural and religious importance to Native Americans today. The Monument includes ceremonial sites and medicinal and ceremonial plants gathered today by Native American peoples. The Monument also encompasses an extraordinary scenic landscape of sinuous canyons and towering sandstone formations. The outstanding opportunities to observe archaeological sites, conduct scientific research, hike, camp, view the native animal and plant life, and engage in other recreational activities have drawn national interest, and thousands of visitors, to Bears Ears.

9. President Trump's proclamation purports to eliminate national monument status and protection from the vast majority of the Monument, including a substantial part of Cedar Mesa, part of Indian Creek, Grand Gulch, Beef Basin,

Dark Canyon Plateau, White Canyon, Fry Canyon, Jacob's Chair, Cheesebox, Polly Mesa, Red House Cliffs, Dry Mesa, and Seven Sisters Buttes.

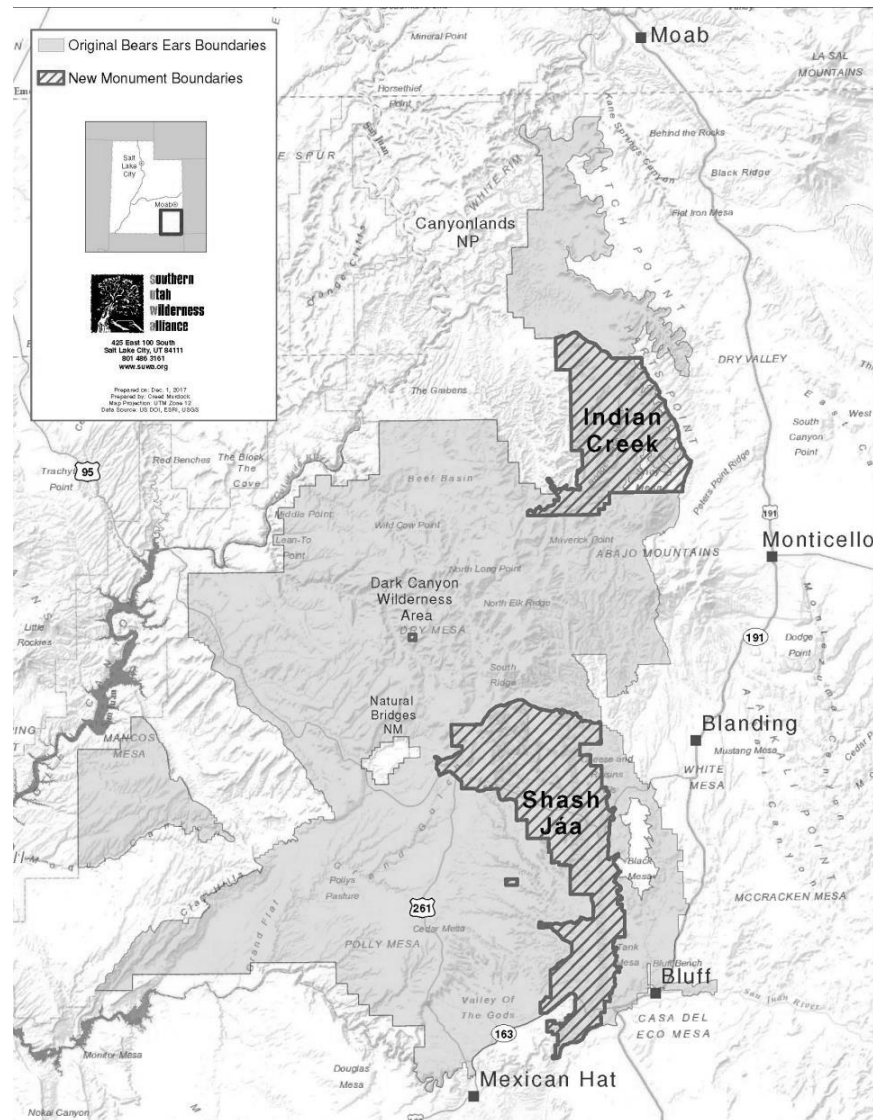


Fig. 1: Revocation of Bears Ears National Monument and replacement with non-contiguous “Indian Creek” and “Shash Jaa” units, as announced on December 4, 2017

Credit: SUWA

10. President Trump’s action exceeds his authority under the Antiquities Act and threatens the remarkable historic and scientific values that qualified Bears

Ears for designation as a national monument. Accordingly, this Court should declare President Trump's proclamation to be unlawful and set it aside. This Court should further enjoin Defendants from complying with President Trump's unlawful proclamation or engaging in any activities inconsistent with the terms of the 2016 Proclamation.

JURISDICTION AND VENUE

11. This case arises under the Constitution and the laws of the United States. Jurisdiction is therefore proper pursuant to 28 U.S.C. § 1331 (federal question). Jurisdiction is also proper pursuant to 5 U.S.C. §§ 701-706 (the Administrative Procedure Act).

12. The Court has authority to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201-2202 and its inherent authority to issue equitable relief. Injunctive relief is also authorized by 5 U.S.C. § 706.

13. The Court has authority to award costs and attorneys' fees under 28 U.S.C. § 2412.

14. Venue is proper in this court pursuant to 28 U.S.C. § 1391(b)(1), (b)(2), and (e)(1) because all Defendants reside in this judicial district. Additionally, the events giving rise to the action challenged here, including Defendant Zinke's national monument review and transmittal of his recommendations to the President concerning the Monument, took place in this judicial district.

15. Venue is also proper pursuant 28 U.S.C. § 1391(e)(1) because Plaintiffs National Parks Conservation Association, The Wilderness Society, and Defenders of

Wildlife reside in Washington, D.C., and Plaintiffs Natural Resources Defense Council, Southern Utah Wilderness Alliance, Sierra Club, and Center for Biological Diversity maintain offices in Washington, D.C.

PLAINTIFFS

16. Plaintiff NATURAL RESOURCES DEFENSE COUNCIL, INC.

(NRDC) is a non-profit environmental membership organization with hundreds of thousands of members nationwide. Part of NRDC's core mission is to preserve the earth's wild places and wildlife, to safeguard the integrity of undeveloped lands, and to prevent the destructive impacts of extractive industry exploration and development on public lands.

17. NRDC has a longstanding commitment to the protection of federal public lands in Utah, and it was actively involved in advocating for the designation of the Bears Ears National Monument.

18. NRDC has individual members, including Moab residents Susan Harrington and Kevin Walker, who use and enjoy the Monument lands for a variety of purposes, including scientific study, hiking and recreation, wildlife viewing, meditation and quiet contemplation, and aesthetic appreciation. These NRDC members intend to continue visiting the Bears Ears National Monument (including lands that have now been stripped of protection) in the future. For example, both Ms. Harrington and Mr. Walker plan to return there for backpacking trips in the next six months and beyond.

19. Plaintiff NATIONAL PARKS CONSERVATION ASSOCIATION (NPCA) is a non-profit national organization whose primary mission is to address major threats facing the National Park System and other protected federal lands with an ecological, management, or other nexus to National Parks. NPCA is the leading voice of the American people in protecting and enhancing the National Park System and other protected federal lands, and it has more than 1.2 million members and supporters throughout the United States.

20. NPCA plays a crucial role in ensuring that America's national parks and national monuments are protected in perpetuity by undertaking a variety of efforts, including educating decision-makers and the public about the importance of preserving these landscapes, lobbying members of Congress to uphold legal protections for national parks and other protected lands, and assessing the health of national parks and monuments and advocating for their effective management.

21. NPCA has been a strong and consistent advocate for safeguarding the threatened cultural and sacred sites in the Bears Ears National Monument. It has members, including David Nimkin, who regularly visit the Monument (including lands that have now been stripped of protection) to camp, sightsee, view native wildlife and vegetation, hike, and enjoy the many cultural sites that can be found there. Mr. Nimkin and other members also plan to visit the Monument regularly in the future, including in 2018.

22. Plaintiff THE WILDERNESS SOCIETY is a non-profit national membership organization founded in 1935, with members who reside throughout the nation, including in Utah.

23. The Wilderness Society works to protect America's wilderness lands through public education, scientific analysis, and advocacy. The Wilderness Society's mission is to protect wilderness and inspire Americans to care about our wild places, so that future generations will enjoy the clean air, water, wildlife, beauty, and opportunities for recreation and renewal that pristine deserts, mountains, forests, and rivers provide. Protecting wilderness quality and other sensitive lands managed by the BLM is vital to achieving The Wilderness Society's mission.

24. Prior to the designation of the Bears Ears National Monument, The Wilderness Society had already worked for years to protect BLM wilderness lands and other sensitive lands located within the Monument. In an effort to protect the threatened wilderness, and cultural and other resources on lands within the Monument, The Wilderness Society has been actively involved in land-use and travel-management planning on public lands there, and has litigated to secure additional protection of these lands from off-highway vehicle abuse and other harmful activities. The Wilderness Society also engaged intensively in the "Public Lands Initiative" legislative effort, which included lands within the Monument.

25. Many of The Wilderness Society's members, including Scott Miller, visit the lands within the Bears Ears National Monument (including lands that

have now been stripped of protection) to experience its remote wilderness quality, view wildlife, camp, hike, and enjoy the natural beauty of the area. Additionally, its members are drawn to the Bears Ears National Monument to view the numerous archaeological sites and rock art found throughout the area and to experience the landscape much as it was when the first Native Americans occupied the area. Mr. Miller and other members of The Wilderness Society plan to visit the area regularly in the future, including in 2018.

26. Plaintiff SOUTHERN UTAH WILDERNESS ALLIANCE (SUWA) is a non-profit environmental membership organization with members in all fifty states and offices in Washington, D.C., and Utah. It is dedicated to the sensible management of federal public lands within the State of Utah, the preservation and protection of plant and animal species, the protection of clean air and water found on federal public lands, the preservation and protection of cultural and archeological resources, and the permanent preservation of Utah's remaining wild lands.

27. SUWA staff and members actively encouraged President Obama to exercise his authority under the Antiquities Act to designate the Bears Ears National Monument and preserve the objects identified in the 2016 Proclamation for current and future generations of Americans.

28. SUWA staff and members have worked for more than thirty years through advocacy and litigation to obtain protection for the Bears Ears area and will continue to work towards this end, including by actively engaging in Monument

planning for the lands that remain in the Monument and by advocating for the protection of former Monument lands.

29. SUWA has individual members—including Ray Bloxham and Neal Clark—who often visit the Bears Ears National Monument (including lands that have now been stripped of protection) for a host of reasons, including spiritual renewal, recreation, and appreciation of the area’s significant cultural resources, flora and fauna, and geology. SUWA members, including Mr. Bloxham and Mr. Clark, plan to visit the area regularly in the future, including in 2018.

30. Plaintiff GRAND CANYON TRUST is a non-profit public lands advocacy organization founded in 1985. The Grand Canyon Trust’s members and staff live and work throughout the Colorado Plateau, in Utah, Colorado, Arizona, and New Mexico. The Grand Canyon Trust’s mission is to protect and restore the public lands throughout the Colorado Plateau. Through its advocacy, the Grand Canyon Trust ensures that the Colorado Plateau remains characterized by vast open spaces, healthy ecosystems, and communities enjoying a sustaining relationship with the natural environment.

31. The Grand Canyon Trust’s Native America program focuses in part on protecting tribally important sacred sites by backing the creation of inter-tribal partnerships to support culturally-guided conservation.

32. The Grand Canyon Trust’s members and staff have long advocated for the protection of the 1.35 million acres of federal public lands within the Bears Ears National Monument. Grand Canyon Trust staff, its board of trustees, and its

members provided support and technical assistance to the Bears Ears Inter-Tribal Coalition, tribal elected officials, and cultural and spiritual leaders, and they work to educate the broader public, federal government, and local communities about the need for permanent protection of the Bears Ears National Monument.

33. The Grand Canyon Trust's staff and members will continue to work with the Bears Ears Inter-Tribal Coalition, tribal governments, legal advisors, and conservation partners over the coming months and years to ensure the maximum protection for the Monument.

34. The Grand Canyon Trust's members and staff, including Tim Peterson, regularly visit areas in the Bears Ears National Monument, including Elk Ridge, Cedar Mesa, Dark and White Canyons, Comb Wash, Grand Gulch, Cottonwood Canyon, Valley of the Gods, Blue Creek Canyon, and the Indian Creek corridor to recreate, find solitude, view pictographs and petroglyphs, experience wilderness, hunt and fish, and monitor and study wildlife and plants. Its members, including Mr. Peterson, will continue to visit the Monument in the future to engage in these activities, including in 2018.

35. Plaintiff GREAT OLD BROADS FOR WILDERNESS (Great Old Broads) is a national grassroots non-profit organization, led by elders, that engages in and inspires activism to preserve and protect wilderness and wild lands. Great Old Broads has over 8,000 members and supporters, many of whom reside and/or engage in recreational activities in Utah. It was formed, in part, to protect the interests of senior populations who value roadless areas, enjoy them without

mechanized means of transportation, and want to see these areas protected in their natural state for future generations.

36. Protection of wild federal public lands in southern Utah has been an important focus of Great Old Broads since it began in 1989. Great Old Broads has conducted educational and advocacy activities on the significance of the lands included in the Bears Ears National Monument, including by monitoring illegal motorized use, evaluating rangeland health, working with agencies on stewardship projects, providing comments during public land agency processes, litigating on issues related to land use and cultural resource protection, participating in collaborative public land management efforts, and educating its members and the public about the many values of the region. Great Old Broads has held several multi-day camping events to become intimately knowledgeable of the region, including a sixty-person, five-day educational campout in September 2016.

37. Members of Great Old Broads, including Steve Allen, visit the federal public lands in the Monument (including lands that have now been stripped of protection) to hike, backpack, enjoy the outstanding scenery and fascinating archaeological sites, view native plant and animal life, take photographs, and experience the remoteness and quiet of the area. Mr. Allen and other members regularly visit the Monument lands and will continue to do so, including in 2018.

38. Plaintiff WESTERN WATERSHEDS PROJECT (WWP) is a non-profit environmental organization founded in 1993 with the mission of protecting and restoring western watersheds and wildlife through education, advocacy in land

management wildlife agencies, promotion of sound public policy initiatives, and litigation. Headquartered in Hailey, Idaho, WWP has field offices and members throughout the west. WWP works to influence and improve public lands management throughout the West and protect the ecological, biological, cultural, historic, archeological, and scenic resources; wilderness; and other natural values found there.

39. WWP supported the Monument's creation and has worked for many years to protect and restore the federal public lands included in the Bears Ears National Monument. Its staff and members, including Erik Molvar, Laura Welp, and Jonathan Ratner, regularly visit these lands for hiking, camping, enjoyment and appreciation of ancient ruins, nature study, wildlife viewing, and appreciation of its geological wonders and natural beauty; Mr. Molvar, Mr. Ratner, and many others have plans to return there in the near future, as early as spring 2018.

40. Plaintiff SIERRA CLUB was founded in 1892 and is the nation's oldest grassroots environmental organization. It is a national non-profit organization of over 800,000 members, including a Utah chapter with thousands of members. The Sierra Club's purpose is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth's ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environment; and to use all lawful means to carry out these objectives. Among the Sierra Club's highest priorities is protecting and preserving national monuments. The Sierra Club's concerns encompass all aspects of the

Bears Ears National Monument, including the protection of wildlands, wildlife habitat, water resources, air, archaeological sites, public health, and the health of its members, all of which stand to be affected by Defendants' actions as set forth herein.

41. Sierra Club members live near, use, and enjoy the Bears Ears National Monument (including lands that have now been stripped of protection) for outdoor recreation and scientific study of various kinds, including nature study, birdwatching, photography, fishing, canoeing, hunting, backpacking, camping, solitude, and a variety of other activities; they will continue to do so in the future.

42. Sierra Club members' concerns encompass the exploration, enjoyment, and protection of the Monument for themselves and future generations. For example, Sierra Club Utah Chapter member Wayne Hoskisson began hiking there in the mid to late 1980s and has visited the area over one hundred times and plans to continue. Since 1995 he has actively pursued protective legislation for much of the region through volunteer lobbying and engaging the public.

43. Sierra Club has a longstanding interest in protecting the Monument. Since at least the 1980s, Sierra Club's Utah Chapter has proposed protections for much of the land that is now within the Monument. Sierra Club has worked over the decades with numerous federal, state, and local government officials, environmental organizations, and the local tribes to obtain long overdue protections for this land. Sierra Club has actively supported the Monument by, among other things, organizing meetings and letter writing campaigns, providing public

comments, and helping to organize public rallies in support of the Monument designation.

44. Plaintiff CENTER FOR BIOLOGICAL DIVERSITY (the Center) is a national non-profit organization dedicated to the protection of native species and their habitats through science, policy, and environmental law. The Center has over 61,000 members and is headquartered in Tucson, Arizona.

45. The Center's members and staff, including Taylor McKinnon, have visited the federal public lands within the Bears Ears National Monument (including lands that have now been stripped of protection) and intend to continue to do so for hiking, camping, viewing and studying wildlife, photography, and other vocational and recreational activities. The Center's members and staff derive recreational, spiritual, professional, scientific, educational, and aesthetic benefits from their activities in these areas. The Center's members and staff, including Mr. McKinnon, have specific intentions to continue using and enjoying these areas frequently and on an ongoing basis in the future.

46. The Center has a long history of environmental advocacy within the southwestern United States generally, and in relation to public lands conservation in particular. As relevant here, the Center has worked to protect species and habitats found on these federal public lands in Utah, including the Mexican Spotted Owl, northern goshawk, spotted bat, Southwestern willow flycatcher, yellow-billed cuckoo, California condor, Navajo sedge, Colorado pikeminnow, bonytail chub, humpback chub, and razorback sucker (a rare desert fish found in the San Juan

River and tributaries to the San Juan and Colorado Rivers within the Monument boundaries). The Center participated in efforts to establish the Bears Ears National Monument that culminated in the 2016 Proclamation.

47. Plaintiff WILDEARTH GUARDIANS (Guardians) is a non-profit organization dedicated to protecting and restoring the wildlife, wild places, wild rivers, and health of the American West. The protection of the Monument is vital to this work because the Monument preserves large tracts of unrestricted wildlife habitat and migration routes. Thus, Guardians has an interest in the protection of the Monument and the ecological resources contained therein that will be harmed by the removal of the protections afforded by national monument status.

48. Guardians has more than 184,000 members and supporters including many who recreate on federal public lands in Utah, and specifically in the Bears Ears National Monument. Guardians has a long-standing interest in the preservation of the Bears Ears National Monument that will be harmed by the revocation of the protections conferred by national monument status. Over the last decade, Guardians has advocated for prohibitions on oil and gas leases and other development that would harm the natural and cultural values on public lands in the Bears Ears region.

49. Guardians staff and members, including James Martin, regularly visit the Bears Ears National Monument (including lands that have now been stripped of protection) for the purposes of hiking, observing archeological sites including cliff dwellings, bird watching, observing wildlife, spiritual rejuvenation, photography,

and other recreational and professional pursuits. Guardians staff and members, including Mr. Martin, have engaged in these activities in the Bears Ears National Monument in the past and have firm plans to participate in these activities in the Monument in the near future.

50. Plaintiff DEFENDERS OF WILDLIFE (Defenders) is a national, non-profit conservation organization founded in 1947, which is dedicated to the protection of all native animals and plants in their natural, undeveloped, native habitats. Headquartered in Washington, D.C., Defenders has more than 1.2 million members and supporters throughout the United States, including in Utah.

51. Defenders works to ensure that the diverse wildlife populations in North America are secure and thriving, sustained by a network of healthy lands and waters. Through education, advocacy, litigation, and other efforts, Defenders works to preserve species and the habitats upon which they depend. The Bears Ears National Monument is vital to this work due to its relatively intact and functional western landscape and because of its regionally significant connectivity, a crucial factor in the conservation of fish and wildlife populations.

52. Defenders has organizational and membership-based interests in the preservation and conservation of the Monument and the ecological resources contained therein that will be harmed by the removal of the protections afforded by Bears Ears' national monument status. Defenders' members and staff, including Kim Crumbo, regularly visit the Monument for wildlife observation, recreation, and other uses. These members derive aesthetic, educational, professional, health, and

spiritual benefits from their activities within the Monument that will be harmed by the revocation of the Monument's protections. Defenders' members and staff, including Mr. Crumbo, have specific intentions to continue to use and enjoy these areas frequently and on an ongoing basis in the future.

DEFENDANTS

53. Defendant DONALD J. TRUMP is sued in his official capacity as President of the United States. He currently resides and conducts his duties in Washington, D.C.

54. Defendant RYAN ZINKE is sued in his official capacity as the Secretary of the Interior of the United States.

55. Secretary Zinke is responsible for ensuring that the Department of the Interior and its constituent agencies, including the BLM, comply with the applicable law, including the 2016 Proclamation's direction and requirements for managing the Monument.

56. The Secretary of the Interior resides and conducts his duties in Washington, D.C.

57. Defendant BRIAN STEED is sued in his official capacity as the official who is exercising the authority of the Director of the BLM within the U.S. Department of the Interior.

58. The Director of the BLM (and currently, Mr. Steed) is responsible for ensuring that the BLM complies with the applicable law, including the 2016 Proclamation's direction and requirements for managing the Monument.

59. The Director of the BLM (and currently, Mr. Steed) resides and conducts his duties in Washington, D.C.

60. Defendant SONNY PERDUE is sued in his official capacity as the Secretary of Agriculture of the United States.

61. Secretary Perdue is responsible for ensuring that the Department of Agriculture and its constituent agencies, including the U.S. Forest Service, comply with the applicable law, including the 2016 Proclamation's direction and requirements for managing the Monument.

62. The Secretary of Agriculture resides and conducts his duties in Washington, D.C.

63. Defendant TONY TOOKE is sued in his official capacity as Chief of the U.S. Forest Service within the U.S. Department of Agriculture.

64. Mr. Tooke is responsible for ensuring that the U.S. Forest Service complies with the applicable law, including the 2016 Proclamation's direction and requirements for managing the Monument.

65. The Chief of the U.S. Forest Service resides and conducts his duties in Washington, D.C.

66. The above-named Defendants have the authority, ability, and obligation to remedy the harms alleged to Plaintiffs' interests.

BACKGROUND

The Antiquities Act

67. The U.S. Constitution's Property Clause gives Congress the exclusive "[p]ower to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States." U.S. Const. art. IV, § 3, cl. 2. Exercising this power, Congress may withdraw federal public land from entry or manage it and prescribe limitations on its use. It may also sell, lease, or otherwise convey federal public land to third parties.

68. In 1906, Congress delegated a part of its Property Clause power to the President when it enacted the Antiquities Act. The Act authorizes the President to "declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments," and to "reserve parcels of land as a part of the national monuments" that comprise the "smallest area compatible with the proper care and management of the objects to be protected." 54 U.S.C. § 320301(a), (b).

69. Using Congress's delegation of authority in the Antiquities Act, Presidents have declared by proclamation 157 national monuments in thirty-two states, four territories, two oceans, and the District of Columbia. Depending on the nature and location of the objects to be protected, national monument designations have ranged from just a few acres to millions of acres in size.

70. A President's national monument designation immediately confers enhanced protection for the "objects of historic or scientific interest" and the lands on which they are found. *Id.* § 320301(a). Once designated as a national monument, those lands must be managed for the purpose of preserving and safeguarding the objects of scientific and historic interest located there. The protection of the identified objects of historic or scientific interest is the paramount purpose for which the land is to be managed.

71. Frequently, as in the case of the Bears Ears National Monument, the federal agencies charged with protecting and managing the monuments must prepare land management plans, with public participation, to ensure that the protective purposes for which the monument was designated are fulfilled.

72. The President may also spell out specific use restrictions in the proclamation itself. For example, to ensure that objects of historic or scientific interest are effectively protected, Presidents have used their Antiquities Act authority to "withdraw" national monument lands from mineral location under the General Mining Law of 1872, 30 U.S.C. § 21 *et seq.*, and from leasing for oil and gas exploration and development under the Mineral Leasing Act of 1920, 30 U.S.C. § 181 *et seq.*—as President Obama did in the 2016 Proclamation establishing the Bears Ears National Monument.

73. In addition, to protect objects of historic or scientific interest, Presidents have used their Antiquities Act authority to limit the building of roads and the use of motorized vehicles on national monument lands—as President

Obama did in the 2016 Proclamation establishing the Bears Ears National Monument.

74. In the Antiquities Act, Congress granted the President *limited* authority to “*declare . . . national monuments*” and “*reserve* parcels of land as a part of the national monuments.” 54 U.S.C. § 320301(a), (b) (emphases added). Congress did *not* authorize the President to abolish national monuments, in whole or in part, once they have been designated. That power belongs to Congress alone.

The Scientific, Historic, and Cultural Significance of the Bears Ears Landscape

75. The Bears Ears National Monument lies in the heart of the Colorado Plateau in one of the least developed areas in the contiguous United States.

76. The landscape is a rugged labyrinth of sandstone canyons, cliffs and rock arches, juniper forests, meadows, and desert mesas. Near its center are the iconic twin buttes known as the Bears Ears.

77. For thousands of years, the area has been inhabited by members of Native American tribal groups, including the Navajo Nation, Hopi Tribe, Ute Indian Tribe, Ute Mountain Ute Tribe, and Pueblo of Zuni, among others. The Bears Ears National Monument is an ancestral homeland for these tribes, and it has deep spiritual, historic, and cultural significance for them. For thousands of years, these people farmed, herded, and hunted wildlife here; they gathered plants for food, medicine, and textiles; they created rock art and built homes and other structures;

they developed and maintained deep systems of traditional knowledge about the landscape; they buried their ancestors.

78. The tribes' history is written on the landscape today: the Bears Ears area is intensely rich with petroglyphs and rock paintings, ancient cliff dwellings, granaries, graves, ceremonial sites, and the remnants of carefully planned and constructed villages, some dating back thousands of years.

79. Today, the tribes' members regularly visit the Bears Ears area to honor their ancestors, to connect with the land, to participate in religious and cultural ceremonies, to hunt and to gather food and medicine, and to transmit their traditional knowledge to the next generation.

80. The cultural history, artifacts, and cultural sites in the Bears Ears National Monument have significant value for the American public at large, including Plaintiff organizations and their members. Plaintiffs' members visit this area to learn more about Native American history and to view, appreciate, and study the rock art and other artifacts found throughout the 1.35 million acre Monument.

81. The Bears Ears National Monument also contains rich resources for scientific study. The landscape's many canyons and exposed layers of sedimentary rock found throughout much of the Monument offer geologists a view of our continent that stretches millions of years back in time. Some of the area's fossil resources may be found nowhere else but in the Bears Ears area. As a coalition of paleontologists explained in a letter to President Obama in October 2016, the

landscape's fossil-bearing rocks offer "an unparalleled record of ancient seas that covered the continent, the rise of vertebrate life on land, the ascendancy of the dinosaurs, and even the remains of Ice Aged animals who once roamed the high plateaus and deep canyons that make the landscape of the Bears Ears area so visually stunning today."

82. The Bears Ears National Monument contains a diversity of wildlife, including bighorn sheep, mule deer, elk, mountain lions, bear, bobcats, foxes, eagles, spotted owls, willow flycatchers, and other migratory and endemic birds. The creeks and tributaries support rare desert fishes such as the razorback sucker.

83. The Bears Ears National Monument is remarkably scenic and remote. It has some of the most outstanding dark skies, free from light pollution and providing optimal stargazing, in North America. It offers unique and outstanding opportunities for sight-seeing, hiking, backpacking, wildlife viewing, spiritual reflection, and other outdoor activities in an awe-inspiring natural setting.

Pre-Monument Management of Federal Public Lands Within the Bears Ears Area

84. The lands that President Obama designated as the Bears Ears National Monument have been federally owned public lands ever since the United States acquired them from Mexico in the Treaty of Guadalupe Hidalgo in 1848—long before President Obama's 2016 Proclamation.

85. As of 2016, some of these lands were managed by the U.S. Forest Service and some were managed by the BLM. The Forest Service managed its

parcels pursuant to the National Forest Management Act (NFMA), 16 U.S.C. § 1600 *et seq.*, and the BLM managed its parcels pursuant to the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. § 1701 *et seq.*

86. Both these statutes include a general mandate to manage federal public lands in accordance with the “multiple use, sustained yield” principle, which allows for a range of uses, including oil and gas drilling, mining, and off-highway vehicle use, as well as wilderness protection. *See* FLPMA, 43 U.S.C. §§ 1702(c), 1712(c)(1) (implementing multiple use in development and revision of land use plans); NFMA, 16 U.S.C. § 1604(e)(1) (same).

87. This multiple-use approach to land management in the Bears Ears region failed to safeguard the unique landscape and the historic and cultural sites situated there.

88. For example, ineffective management and poorly regulated off-highway vehicle use led to environmental damage as well as the looting and vandalism of graves, cultural sites, and fossils. In recent years, on their trips throughout the Bears Ears region, members of the Plaintiff organizations often observed growing evidence of damaging off-highway vehicle use, including repeated stream crossings, trampled vegetation, rutted and broken soil, and unauthorized vehicle trails leading to cultural sites that had been damaged or destroyed.

89. Prior to the Monument designation, the BLM regulated off-highway vehicle use in the portion of Bears Ears under its jurisdiction according to the agency’s Monticello and Moab Field Office Resource Management Plans and their

off-highway vehicle travel management plans. Those plans did not consider the impacts of motorized vehicle use on cultural resources, and they failed to mitigate the harms of off-highway vehicle use on those cultural sites, on fossil resources, or on the fragile ecosystem. On the contrary, in its 2013 review of the Monticello travel plan, the BLM acknowledged that “route and travel designations in the [plan] fail to address cultural and paleontological needs and protection.”

90. Similarly, prior to the Monument designation, the Forest Service regulated off-highway vehicle use in the portion of Bears Ears under its jurisdiction (the Manti-La Sal National Forest) according to the agency’s Monticello Ranger District travel plan. The Forest Service’s 1986 travel plan, like the BLM’s plans, failed to protect cultural sites, fossils, or the fragile ecosystem, allowing widespread damage.

91. Additionally, prior to the Monument designation, the BLM and the Forest Service permitted the leasing and exploration of federal lands throughout Bears Ears for oil and gas development and mining—activities that damaged the unique features of the Bears Ears landscape.

92. This damage has included clearing vegetation, leveling, construction of well pads, exploratory drilling, new or expanded road surfaces, increased traffic and dust, impacts to viewsheds, degradation of wildlife habitat, and disturbance to wildlife movement corridors. Emissions from oil and gas drilling has degraded air quality.

93. Also prior to the Monument designation, prospectors in search of uranium deposits routinely “located” or staked new mining claims wherever they wished on the available federal public lands in the Monument. In pursuit of their mining activities, they undertook “notice-level” surface-disturbing activities—such as road building and drilling—under the permissive provisions of the General Mining Law of 1872, with damaging and disruptive effects on the surrounding land.

94. To address these ongoing harms, a broad range of groups, led by the tribes and including Plaintiffs, spent years advocating for greater protection of the Bears Ears landscape. For example, NRDC, The Wilderness Society, SUWA, Great Old Broads for Wilderness, and the Grand Canyon Trust spent decades advocating for the permanent protection of Bears Ears. To ensure that the lands remained unmarred pending that protection, they watchdogged the BLM’s proposals to offer oil and gas leases in Bears Ears and challenged many of those plans.

The 2016 Proclamation Designating the Bears Ears National Monument

95. In 2015, tribal leaders from the Navajo Nation, Hopi Tribe, Ute Indian Tribe, Ute Mountain Ute Tribe, and Pueblo of Zuni collectively formed the Bears Ears Inter-Tribal Coalition. The Coalition crafted a comprehensive proposal for the creation and management of a Bears Ears National Monument, and they submitted the plan to President Obama in October 2015.

96. The Coalition’s proposal was the first petition ever submitted by Native American tribes seeking the establishment of a national monument. Their

proposal laid out a detailed case for conferring monument status on lands within the Bears Ears region, identified particular sites and objects of historic and scientific interest that merited immediate protection under the Antiquities Act, and proposed a framework for collaborative management of the Monument by the tribes and the federal government.

97. Plaintiffs actively supported the Coalition's efforts to designate the Monument and provide it with the necessary protection. Among other things, they asked their members to contact President Obama, the Secretary of the Interior, and the Secretary of Agriculture, and to urge them to protect the Bears Ears region. Several Plaintiffs also attended numerous meetings held by these officials and their staff to explain why protection under the Antiquities Act was warranted and to encourage them to support a monument designation for Bears Ears.

98. The Coalition's and Plaintiffs' efforts finally led, in 2016, to President Obama's proclamation establishing the Bears Ears National Monument. The 2016 Proclamation specifically invokes the President's authority under the Antiquities Act and describes in detail the geological, paleontological, archaeological, historic, cultural, and ecological significance of the Bears Ears landscape and the landmarks and objects found there, and it sets forth provisions and requirements that are essential to their future protection.

99. Cultural sites important to Native American tradition and history occur throughout the Bears Ears National Monument, and many have been damaged by looting, vandalism, and other impacts. In recognition of the extensive

distribution of these valuable sites and the importance of protecting them, as well as the presence of other objects requiring protection throughout the Bears Ears region, President Obama determined that the boundaries of the Bears Ears National Monument represented the smallest size compatible with the protection of the objects of historic and scientific interest contained therein.

100. The 2016 Proclamation made clear that the objects of historic or scientific interest were immediately subject to the Antiquities Act's protections, stating: "Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of the monument and not to locate or settle upon any of the lands thereof."

101. The 2016 Proclamation spelled out several specific protections and use limitations. It provided that "[a]ll Federal lands . . . within the boundaries of the monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition[;] . . . from location, entry, and patent under the mining laws[;] and from disposition under all laws relating to mineral and geothermal leasing." The 2016 Proclamation thereby immediately prohibited the location of any new mining claims and the offering of any new leases, including the processing of non-competitive lease sale offers, for oil and gas development.

102. The 2016 Proclamation also directed the Forest Service and the BLM to undertake specific actions to protect the Monument. The agencies are required to "manage the monument" consistent with "the purposes of this proclamation"—that

is, the protection of the listed geological, paleontological, archaeological, historic, cultural, and ecological resources that occur throughout the Monument.

103. The 2016 Proclamation placed all BLM-managed lands within the Monument into the National Landscape Conservation System, 16 U.S.C. § 7201 *et seq.*, which required the BLM to manage existing recreational uses, mining claims, and leasehold activities in the Monument in a manner that protects the geological, paleontological, archaeological, historic, cultural, and ecological resources described in the 2016 Proclamation.

104. Further, the 2016 Proclamation provided that “the Secretaries [of Agriculture and of the Interior] shall jointly prepare a management plan for the monument and shall promulgate such regulations for its management as they deem appropriate.”

105. The 2016 Proclamation also required that the Forest Service and the BLM, consistent with their duty to protect Monument resources, “prepare a transportation plan that designates the roads and trails where motorized and non-motorized mechanized vehicle use will be allowed.” Even before that transportation plan is in place, however, the Proclamation itself imposed new limitations on off-highway vehicle use. It prohibited the construction or designation of any new roads or trails except those that are “for the purposes of public safety or protection of [the Monument’s] objects.” Further, it specified that use of existing roads or trails already designated for off-highway vehicle use could continue pending completion of

the plan, but only if such use was “consistent with the care and management of [the protected] objects.”

106. The 2016 Proclamation went on to “establish[]” the “Bears Ears Commission” (the Commission): a unique advisory council consisting of “one elected officer each from the Hopi Nation, Navajo Nation, Ute Mountain Ute Tribe, Ute Indian Tribe of the Uintah Ouray, and [Pueblo of] Zuni.” The Commission’s purpose was to “provide guidance and recommendations on the development and implementation of management plans and on management of the monument.” In March 2017, the five tribes each formally named one representative to the Commission, thereby constituting it.

107. The 2016 Proclamation also established a way for non-tribal stakeholders to participate in the Monument’s management by directing the Secretaries, through the BLM and the Forest Service, to “establish an advisory committee under the Federal Advisory Committee Act . . . consist[ing] of . . . interested stakeholders” to contribute “information and advice regarding the development of the management plan and, as appropriate, management of the monument.”

108. On January 18, 2017, the BLM and the Forest Service announced their intent to publish in the Federal Register a call for nominations to recruit twelve members for the Monument’s advisory committee, including a representative from the environmental community and representatives with paleontological and historic

or archaeological expertise. As of the date of this complaint's filing, however, no such call for nominations has been issued.

109. Plaintiffs Grand Canyon Trust, SUWA, and NPCA formally sought a seat on the advisory committee.

110. On February 28, 2017, the Grand Canyon Trust wrote to the BLM and the Forest Service requesting "that Grand Canyon Trust's Utah Wildlands Program Director Tim Peterson serve as a member of the Bears Ears National Monument Advisory Committee." On March 20, 2017, the BLM responded that it was not accepting nominations for the Committee.

111. On March 13, 2017, SUWA wrote to the BLM requesting a seat for Ray Bloxham, SUWA's Field Director and a SUWA member, on the Advisory Committee. On April 4, 2017, the BLM responded that it was not accepting nominations for the Committee.

112. NPCA made a verbal request to the BLM for a seat on the Committee. The BLM again declined, saying that it was not accepting applications for Committee participation.

President Trump's decision to revoke monument status from eighty-five percent of the Bears Ears National Monument

113. Even before President Trump's January 20, 2017 inauguration, Utah politicians, including members of the state's congressional delegation, began to lobby him to abolish or severely shrink the Monument.

114. On April 26, 2017, President Trump acceded to the Utah politicians' demands and issued Executive Order 13,792, 82 Fed. Reg. 20,429 (Apr. 26, 2017), which directed the Secretary of the Interior to "review" all monuments designated or expanded since 1996 that (a) were 100,000 acres or larger after the designation or expansion, or (b) were, in the Secretary's view, created or expanded without "adequate public outreach." The Executive Order required the Secretary to provide reports and recommendations to the President concerning possible actions regarding those monuments.

115. As the President prepared to sign the order, Vice President Mike Pence presaged the outcome of the review, explaining that President Trump was about "to undo one of the great Federal overreaches of recent decades: the abuse of the Antiquities Act . . . to grab land and power at the American people's expense." President Trump followed with his own preview of the outcome of the process: "I'm signing a new executive order to end another egregious abuse of federal power," referring to previous Presidents' use of the Antiquities Act. Although the affected monument lands are federal public property owned by all Americans and have never been under state control, the President declared: "Today we are putting the states back in charge."

116. The President highlighted the lobbying by Senators Orrin Hatch and Mike Lee of Utah to reverse monument designations in Utah, stating, "I'm very proud to be doing it in honor of you guys." Finally, he opined that the Bears Ears National Monument "should never have happened." These remarks were made on

April 26, 2017, predating the commencement of the Secretary of the Interior's "review."

117. Executive Order 13,792 directed the Secretary of the Interior to evaluate the monuments by reference to a variety of factors absent from the Antiquities Act, including:

- (i) "the effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land Policy and Management Act (43 U.S.C. § 1701(a)(7)), as well as the effects on the available uses of Federal lands *beyond* the monument boundaries;
- (ii) "the effects of a designation on the use and enjoyment of non-Federal lands within or *beyond* monument boundaries;
- (iii) "concerns of State, tribal, and local governments affected by a designation, including the economic development and fiscal condition of affected States, tribes and localities;
- (iv) "the availability of Federal resources to properly manage designated areas; and
- (v) "such other factors as the Secretary deems appropriate."

Exec. Order No. 13,792 § 2(a) (emphasis added).

118. Bears Ears received particular attention in President Trump's April 26 Executive Order. While the Order gave the Secretary of the Interior 120 days to review all other monuments, it required him to submit an "interim report" on Bears

Ears specifically within forty-five days—i.e., by June 10, 2017. The Executive Order directed Secretary Zinke to provide “recommendations for such Presidential actions, legislative proposals, or such other actions consistent with the law as the Secretary may consider appropriate” to “balance the protection of . . . objects against the appropriate use of Federal lands and the effects on surrounding lands and communities.” Exec. Order No. 13,792 §§ 1, 2(d). Secretary Zinke explained in a press briefing that his review would focus on whether the monuments should be “rescinded, resized, [or] modified.”

119. On May 11, 2017, the Department of the Interior began accepting public comments on the twenty-seven monuments fitting the criteria described in the Executive Order, including Bears Ears.

120. Initially, the Department of the Interior’s public comment period for Bears Ears was open for just fifteen days. Even in that short time, hundreds of thousands of commenters, including Plaintiffs and their members, submitted comments in support of Bears Ears.

121. Secretary Zinke submitted his interim report on Bears Ears to President Trump on June 10, 2017. Although Secretary Zinke conceded that the Monument “contains unique geologic features and objects of historic or scientific interest,” he opined that “the [Monument] boundary [should] be revised through use of appropriate authority, including lawful exercise of the President’s authority granted by the [Antiquities] Act.” Secretary Zinke “further recommend[ed] that the

Department of the Interior conclude the full [120-day] review . . . before more specific recommendations are made regarding the Bears Ears National Monument.”

122. The Department then re-opened the public comment period on Bears Ears until July 10, 2017. On information and belief, the public comments overwhelmingly favored leaving Bears Ears intact.

123. On information and belief, the Forest Service submitted comments on the Monument and did not recommend that any lands managed by that agency be removed from monument status and protection.

124. On August 24, 2017, Secretary Zinke submitted his report to the President. The Secretary’s report acknowledged that the public comments received were “overwhelmingly in favor of maintaining existing monuments.” Nonetheless, as to Bears Ears, the report recommended that the President eliminate portions of the Monument and revoke associated protections for the excised areas. As directed by Executive Order No. 13,792, the Secretary’s report stated that it considered extra-statutory factors such as monuments’ effects on private land and on extractive uses such as grazing, mining, and timber production in reaching its conclusions.

125. Based on the Secretary of the Interior’s report and recommendations, President Trump indicated his intention to dramatically shrink the Bears Ears National Monument. In October 2017, President Trump reportedly told Senator Hatch: “I’m approving the Bears Ears recommendation for you, Orrin.”

126. On December 4, 2017, President Trump issued a Presidential Proclamation revoking monument status from eighty-five percent of the Bears Ears

National Monument and replacing the Monument with two smaller, non-contiguous units that he called “the Indian Creek Unit” and “the Shash Jáa Unit.” Although President Trump’s proclamation claimed to “modif[y]” Bears Ears, it effectively abolished the Monument and replaced it with two new, much smaller and significantly less protective monuments, separated from one another by roughly twenty miles. Together, the two new “units” cover only fifteen percent of the Bears Ears National Monument’s original area.

127. Even if President Trump’s action could fairly be called a “modif[ication]” of the Bears Ears National Monument and not an abolition, the result would be the same: his action revoked monument status and protection from 1,150,860 previously protected acres of land, and significantly weakened the legal protections that apply on the remaining acreage. The President has no constitutional or statutory authority to take such action.

128. President Trump’s proclamation concedes that “[s]ome of the existing monument’s objects [of historic or scientific interest], or certain examples of those objects, are not within the monument’s revised boundaries,” and will therefore be left without monument protections that the 2016 Proclamation deemed necessary and appropriate.

129. For example, on information and belief, there are numerous areas totaling thousands of acres now excluded from the Monument that the BLM recognizes as having a high potential for cultural and historic sites. These areas—including Farm House Ruin, Tower Ruin, and Fry Canyon Ruin—are now at risk

from damage caused by off-highway vehicles, mining, looting, and vandalism. President Trump's proclamation asserts that other laws and existing BLM and Forest Service policies adequately protect these objects, but that is false. For example, the BLM itself recognized that its pre-Monument travel plan failed to ensure adequate protection of cultural and paleontological resources, and numerous public comments emphasized the importance of monument protections for the effective preservation of such sites.

130. President Trump's proclamation also excludes from monument protection areas the 2016 Proclamation deemed "crucial habitat" for elk and bighorn sheep, with no explanation of how excluding these areas is consistent with the Antiquities Act. President Trump's proclamation also excludes habitat for the moth *Eucosma navajoensis* and Utah night lizard, though current agency plans and policies are inadequate to protect them from harm.

131. President Trump's proclamation lacks an adequate basis for the decision to exclude areas with documented scientific or historic values that qualify for protection under the Antiquities Act.

132. Because of President Trump's proclamation, the Department of the Interior will no longer implement the protections required by the 2016 Proclamation at all for the 1.15 million acres of land removed from the Monument, and will fail to implement specific protections relating to off-highway vehicles and livestock grazing on the remaining lands now within the Indian Creek and Shash Jáa units. On information and belief, Defendants will no longer implement or comply with the

2016 Proclamation unless the Court declares President Trump's action unlawful and sets it aside.

133. On information and belief, Defendants will promptly revert to their pre-Monument land management approach for the lands stripped of monument protection under the more permissive, pro-development, "multiple use" regime, without the protective mandate of the 2016 Proclamation. President Trump's proclamation will, accordingly, result in significantly less protection of the resources identified in the 2016 Proclamation. Without monument status, Defendants will not protect the scenic, scientific, ecological, historic, and cultural resources on these lands, and, on information and belief, they will reopen lands to uranium mining and oil and gas drilling, with devastating consequences to the wild character and the scientific and cultural resources of the Monument.

President Trump's action harms Plaintiffs' interests by eliminating protections guaranteed by the 2016 Proclamation

134. Each of the Plaintiff organizations has individual members who regularly use and enjoy the Bears Ears National Monument for a variety of purposes, including scientific study, hiking and recreation, wildlife viewing, cultural and spiritual purposes, and aesthetic appreciation.

135. Plaintiffs' members value the beauty, remoteness, and largely unspoiled nature of the landscape and the geological, paleontological, archaeological, historic, cultural, and ecological resources found throughout the

Bears Ears National Monument, including in the areas that President Trump's proclamation stripped of monument protection.

136. For example, Lockhart Basin, located in the northern extent of Bears Ears National Monument, is rich in cultural resources, native and unique flora and fauna, and remarkable geology. The area has also been targeted for hardrock mining and oil and gas leasing. Members of Plaintiff organizations, including NRDC, SUWA, Sierra Club, and the Center, frequently visit this place to enjoy its scenic beauty and cultural history. President Trump's proclamation stripped Lockhart Basin of monument status.



Fig. 2: Lockhart Basin
Credit: Ray Bloxham, SUWA

137. White Canyon is a maze of incised slickrock canyons located on the western end of the Bears Ears National Monument. It is a popular area for canyoneering and contains a high density of cultural sites, including rock art and structures (e.g. granaries and cliff dwellings) that have survived for hundreds and in some cases thousands of years in the Monument's dry environment. White Canyon also contains tar sands and uranium deposits. Prior to the Monument's designation in 2016, it was often the target of leasing proposals and mining claims. Plaintiffs' members often visit White Canyon for spiritual renewal, to appreciate the cultural sites, and to explore the canyon complex. President Trump's proclamation stripped White Canyon of monument status.



Fig. 3: White Canyon
Credit: Scott Smith

138. The Valley of the Gods, located in the extreme southern extent of the Bears Ears National Monument, is one of the most well photographed areas in the Monument and a place of stunning beauty. With its red rock spires and sweeping vistas, the Valley of the Gods offers a unique perspective on the Monument's geology. The Valley of the Gods also contains oil and gas deposits, and notwithstanding its designation as an area of critical environmental concern, it was often subject to oil and gas leasing and development proposals before the Bears Ears National Monument was established in 2016. Plaintiffs' members often visit Valley of the Gods to photograph and study its remarkable geology, as well as for aesthetic appreciation and solitude. President Trump's proclamation stripped the Valley of the Gods of monument status.



Fig. 4: Valley of the Gods
Credit: Louis Salkind

139. The Bears Ears National Monument benefited Plaintiffs' members by withdrawing these and other areas from mineral entry and protecting them from the damaging impacts of mining, oil and gas exploration and development, trail and road construction, excessive off-highway vehicle use, artifact theft and destruction, and other harmful activities.

140. Plaintiffs' members' use and enjoyment of these and other areas within Bears Ears were enhanced by the national monument designation, which conferred important additional protections above and beyond prior management on the areas' fragile resources.

141. President Trump's action will adversely affect Plaintiffs' members' interests by removing those protections—including the protections against mining, oil and gas exploration and development, road construction, and off-highway vehicle access—from 1.15 million acres of federal public lands that they regularly use, and by allowing activities to commence that will disturb the tranquility and scenic beauty of the area and expose irreplaceable archaeological and cultural sites to a serious and substantially heightened risk of damage.

142. President Trump's action renders one of the country's most pristine, unique landscapes vulnerable to immediate harm, and thus injures the aesthetic, cultural, spiritual, recreational, scientific, and educational values that Plaintiffs' members derive from the Bears Ears National Monument.

Hardrock mining

143. For example, because of President Trump's action, the BLM and Forest Service will no longer prohibit mineral entry on the lands that were protected under the 2016 Proclamation and that are now stripped of monument status.

144. President Trump's proclamation specifies that after sixty days, the 1.15 million acres of land stripped of monument status "shall be open to (1) entry, location, selection, sale, or other disposition under the public land laws and laws applicable to the U.S. Forest Service; (2) disposition under all laws relating to mineral and geothermal leasing; and (3) location, entry, and patent under the mining laws." Thus, after sixty days, these lands will be subject to staking and mining claims under the General Mining Law of 1872.

145. There are deposits of hard-rock minerals—primarily uranium—throughout the Monument. As recently as September and October 2016, shortly before the designation of Bears Ears National Monument, several new mining claims were located in the Monument.

146. On information and belief, after the expiration of the sixty-day period, mining claims will imminently be located on federal public lands that were protected under the 2016 Proclamation. In May 2017, representatives from Energy Fuels Corporation—the owner of the Daneros uranium mine in San Juan County, Utah, which sits in close proximity to the Bears Ears National Monument—attended an on-site field trip with Secretary Zinke and presented a map depicting lands then within the Monument that Energy Fuels Corporation proposed be

removed from protection. In July 2017, representatives from Energy Fuels Resources met with Interior Department officials in Washington, D.C., to continue their discussions about Bears Ears. These lands have now been stripped of monument protection under President Trump's proclamation.

147. Prospectors do not need permits or other prior authorization from the BLM or any other government agency to locate and record hard-rock mining claims on available lands excluded from Monument status. Where valuable minerals are present, these claims constitute valid property interests, creating a persistent cloud on the public land and limiting the federal land managers' ability to preserve the natural character of the land.

148. Now that President Trump has stripped 1.15 million acres of the Bears Ears National Monument of monument status, prospectors will engage in exploration activities ("casual use" and "notice use" activities) on public lands and mining claims where they previously could not. *See* 43 C.F.R. §§ 3809.10(a), 3809.605(b) (casual use); *id.* §§ 3809.21, 3809.312(a) (notice use).

149. Notice-level activities may involve road construction, which can generate dust and waste, scrape lasting scars into the soil, remove native vegetation, disturb wildlife habitat, introduce invasive species, increase erosion, and harm water quality. *See id.* § 3809.5 (defining exploration activities). Truck traffic and other surface development results in new auditory and visual intrusions in areas that would otherwise be quiet and pristine. All these impacts harm

Plaintiffs' members' interests and diminish their enjoyment of the natural setting in Bears Ears.

150. New hard-rock mining claims and exploration are also likely to occur on Forest Service-managed land. *See* 36 C.F.R. § 228.4(a). These new claims and development activities will also harm Plaintiffs' members.

151. Mineral exploration and development has destructive impacts not only on the claimed land itself, but also on the surrounding area. Increased noise and vehicle traffic threaten Bears Ears' unique character, described in the 2016 Proclamation as "one of the most intact and least roaded areas in the contiguous United States."

152. In addition to opening up Bears Ears lands to new mineral claims, on information and belief, President Trump's action will also allow development to proceed on existing mining claims that would have been prohibited under the 2016 Proclamation.

153. There is a substantial risk that these activities will resume as a result of President Trump's proclamation, and that the resumption of these activities will cause imminent harm to the natural, archaeological, and paleontological resources of the Bears Ears National Monument and will thereby harm Plaintiffs' members who visit Bears Ears for quiet recreation, solitude, education, and aesthetic appreciation.

Oil and gas leasing

154. Additionally, because of President Trump's action, lands that were protected under the 2016 Proclamation are now open for BLM leasing under the Mineral Leasing Act of 1920.

155. On information and belief, there are oil and gas deposits throughout the Bears Ears National Monument, including in the areas now stripped of monument protection.

156. Prior to the 2016 Proclamation, the oil and gas industry commonly sought leases and permits to drill on lands within the Monument boundaries, and in many instances the BLM approved the sale of oil and gas leases and applications for permits to drill on those lands. In particular, the BLM sold leases in Hatch Point, near the town of Bluff, and above Fish and Owl Creek—all areas that were included within the Monument under the 2016 Proclamation, but which President Trump has stripped of monument protection.

157. Absent the Monument's protections, new leaseholders may be authorized to engage in activities with long-lasting impacts—including the scraping of surface vegetation (for drill pads, tanks, and other facilities associated with drilling) and the construction of new roads and pipelines (with the resulting truck traffic, fumes, debris, and other damage)—with few restrictions. These activities threaten to disrupt not only the land on which leases are granted, but also the surrounding areas.

158. On information and belief, the BLM will now manage the Monument lands that have been stripped of protection pursuant to the resource allocations made in the BLM's pre-Monument resource management plans. Many of the BLM-managed lands that were protected by the 2016 Proclamation are identified in these resource management plans as open for leasing with minimal stipulations.

159. On information and belief, the BLM will likely lease lands for oil and gas development that would, absent President Trump's order, have been protected by the 2016 Proclamation.

Roads and off-highway vehicle use

160. In addition, by stripping 1.15 million acres of monument status and purporting to modify the protections that apply to the remaining acreage, President Trump's proclamation makes it substantially more likely that off-highway vehicle traffic will increase and spread into sensitive areas, damaging the landscape and historic and scientific resources and harming Plaintiffs' members' interests.

161. By designating Bears Ears as a national monument and including it in the National Landscape Conservation System, the 2016 Proclamation required the BLM to more strictly regulate off-highway vehicle use to protect natural, archaeological, cultural, and paleontological resources within the Monument's boundaries. The 2016 Proclamation also specifically prohibited the construction and designation of any new roads or trails except those needed "for the purposes of public safety or protection of [the Monument's] objects," and it specified that use of existing roads or trails already designated for off-highway vehicle use could

continue pending completion of a new travel management plan, but only if such use was “consistent with the care and management of [the protected] objects.”

162. President Trump’s action removes these protections entirely from the 1.15 million acres of land that are stripped of monument status. Those areas will now revert to the inadequate terms of the BLM and the Forest Service’s pre-Monument travel plans and will suffer harm related to the impacts of inadequately regulated and increasing off-highway vehicle use.

163. Inadequately controlled off-highway vehicle traffic destroys a unique and foundational element of the desert ecosystem: cryptobiotic soil. Loss of this crucial assemblage of soil bacteria and other components causes ecological damage, loss of soil fertility, and scars on the landscape that can take hundreds of years to recover.

164. Off-highway vehicle use on roads and trails designated in the BLM’s and Forest Service’s travel plans has already caused direct and indirect damage to archaeological and cultural resources throughout the lands designated in the 2016 Proclamation. Reverting to those pre-Monument travel plans will allow such damage to continue. The revocation of the Monument designation and the removal of the limitations on off-highway vehicles will put cultural sites and artifacts in serious jeopardy. The pre-existing resource management plans contain inadequate protections for those sites and artifacts.

165. Moreover, within the Indian Creek and Shash Jáa units, President Trump’s proclamation opens roads and trails for motorized vehicle use that would

have been closed under the 2016 Proclamation as incompatible with the protection of the Monument's objects of historic and scientific interest. President Trump's proclamation states that, "pending preparation of the transportation plan" for the Indian Creek and Shash Jáa units, "motorized . . . vehicle use" may be allowed on "roads and trails designated for such use immediately before [the 2016 Proclamation]"—thereby leaving open roads and trails that would have been closed under the 2016 Proclamation as inconsistent with the care and management of the protected objects.

166. President Trump's proclamation also makes it more likely that damage caused by livestock grazing to cultural and historic resources (including culturally important plants), as well as soils and habitats related to objects of scientific interest, will continue on lands protected under the 2016 Proclamation. The 2016 Proclamation mandated that livestock grazing would be evaluated to "ensure . . . the care and management of the objects" identified. The Trump proclamation removes that protection entirely.

167. The lifting of these protections will subject Plaintiffs' members to the noise and disruption associated with off-highway vehicle traffic, and will facilitate motorized vehicle access to ecologically and culturally fragile areas, thereby contributing to the damage and looting of archaeological sites and harm to the ecosystem.

168. Because of President Trump's proclamation, BLM and Forest Service lands will be exposed to the kind of widespread off-highway vehicle damage that

occurred prior to the Monument's designation. New roads and trails will be constructed and designated under these agencies' historically inadequate regulation of such use. Off-highway vehicle use will increase and spread into new areas currently not accessed by vehicular traffic. These new roads and trails would not have been constructed and designated if the 2016 Proclamation were still in effect.

169. For example, shortly before President Obama issued the 2016 Proclamation, the BLM approved the construction of a new off-highway vehicle trail and three parking lots in the Indian Creek area, within the original boundaries of the Monument but outside the so-called "Indian Creek Unit." On March 13, 2017, the Interior Board of Land Appeals stayed construction of the trail and parking lots, concluding that "new roads and trails" were prohibited by the 2016 Proclamation, and that appellants including SUWA, the Grand Canyon Trust, and Great Old Broads had established that the commencement of construction would cause their members irreparable harm. *See Order, S. Utah Wilderness Alliance et al.*, IBLA 2017-75, *6-7 (Mar. 13, 2017).

170. Now, given President Trump's action, the basis for the Board's stay of the trail and parking lot construction has disappeared, opening the door to increased destructive motorized vehicle use that would not have been allowed under the 2016 Proclamation.

171. The revocation of the Monument designation and its limitations on off-highway vehicles harms Plaintiffs' members' aesthetic, cultural, spiritual, recreational, scientific, and educational interests because it will lead to increased

noise, air pollution, and other physical damage to the land, water, wildlife habitat, scenery, and cultural resources that Plaintiffs' members wish to enjoy as pristine.

Damage to paleontological resources

172. President Trump's action also removes protections for paleontological resources in Bears Ears.

173. While federal regulations generally allow the "casual collecting" of common invertebrate and plant fossils for non-commercial personal use on land managed by the Forest Service, 36 C.F.R. §§ 291.5, 291.10, that same casual collecting is absolutely prohibited in national monuments, *id.* § 291.12. Violations may be punished by a fine or imprisonment. *Id.* § 1.3(b).

174. The BLM also allows the non-commercial collection of "rock and mineral specimens, common invertebrate and common plant fossils, and semiprecious gemstones." 43 C.F.R. § 8365.1-5(b)(2). The 2016 Proclamation prohibited such collection inside the Monument by giving "warning . . . to all unauthorized persons not . . . remove any feature of the monument."

175. Due to President Trump's action, casual collection of paleontological resources will no longer be illegal on lands stripped of Monument protection and will likely resume. The collection and appropriation of those resources means that Plaintiffs' members will lose the ability to view them in situ and enjoy their scientific and educational value in their natural setting.

Agency Defendants have decided not to carry out their duties under the 2016 Proclamation

176. Due to President Trump's action, on information and belief, Defendants Secretary of the Interior, Director of the Bureau of Land Management, Secretary of Agriculture, and Chief of the U.S. Forest Service (collectively, the Agency Defendants) have decided not to carry out their duties under the 2016 Proclamation. For example, on information and belief, the Agency Defendants will no longer prepare an off-highway vehicle travel plan for the Monument that protects and restores the objects identified in the 2016 Proclamation, nor will they prepare a monument management plan that spans the full extent of the lands and objects protected by the 2016 Proclamation.

177. President Trump (by purporting to revoke monument status from the vast majority of the Bears Ears National Monument and override the protections that apply in the remaining parcels under the 2016 Proclamation) and the Agency Defendants (by failing to carry out their duties under the 2016 Proclamation) have deprived Plaintiffs of the benefits of the protections guaranteed by the 2016 Proclamation.

178. Defendants' actions adversely affect and irreparably injure the Plaintiffs' and their members' interests, and those injuries will continue unless the Court grants the relief Plaintiffs seek.

179. Plaintiffs' injuries would be redressed by the relief sought here.

180. Plaintiffs have no adequate remedy at law.

FIRST CLAIM FOR RELIEF
Antiquities Act, 54 U.S.C. § 320301 *et seq.*
(Defendant Trump)

181. Plaintiffs re-allege and incorporate by reference all the allegations set forth in this Complaint.

182. Judicial review is available to ensure that presidential actions are consistent with constitutional principles and that the President has not exceeded his statutory authority.

183. The President has the authority to regulate federal public lands only to the limited extent that Congress has delegated that authority to the President.

184. In issuing his proclamation of December 4, 2017, President Trump exceeded his authority under the Antiquities Act, 54 U.S.C. § 320301 *et seq.* Under the Act, Congress authorized the President to designate federal public lands as national monuments, but not to abolish national monuments in whole or in part.

185. As a result, President Trump's proclamation revoking monument status from the vast majority of the Bears Ears National Monument exceeded the scope of his authority and is *ultra vires* and unlawful.

SECOND CLAIM FOR RELIEF
U.S. Constitution, art. II, and separation-of-powers doctrine
(Defendant Trump)

186. Plaintiffs re-allege and incorporate by reference all the allegations set forth in this Complaint.

187. Judicial review is available to ensure that presidential actions are consistent with constitutional principles and that the President has not unlawfully

intruded on Congress's exclusive power over federal public lands under the Property Clause of the Constitution. U.S. Const. art. IV, § 3, cl. 2.

188. The President has the authority to regulate such property only to the limited extent that Congress has delegated that authority to the President.

189. Congress has not delegated to the President any authority to revoke or modify the monument designations of prior Presidents or of Congress.

190. In issuing his proclamation of December 4, 2017, President Trump exceeded his authority under Article II of the U.S. Constitution and intruded on Congress's exclusive power under the Property Clause, in violation of the doctrine of separation of powers.

THIRD CLAIM FOR RELIEF
Take Care Clause, U.S. Const. art. II, § 3
(Defendant Trump)

191. Plaintiffs re-allege and incorporate by reference all the allegations set forth in this Complaint.

192. The U.S. Constitution requires the President to "take Care that the Laws be faithfully executed." U.S. Const. art II, § 3.

193. The 2016 Proclamation, as a lawful exercise of congressional authority delegated to the President under the Antiquities Act, is a "law" within the meaning of the "take Care" clause. Accordingly, the Constitution requires President Trump to faithfully execute that law.

194. President Trump must also “take Care” to faithfully execute the Antiquities Act, including its narrow delegation of authority to Presidents to declare national monuments, but not abolish them in whole or in part.

195. President Trump has violated the “take Care” clause of the U.S. Constitution by attempting to override the 2016 Proclamation and revoke national monument status and protection from 1.15 million acres of the Bears Ears National Monument, which contain objects of historic and scientific interest that the 2016 Proclamation designated for protection under the Antiquities Act.

FOURTH CLAIM FOR RELIEF
Antiquities Act, 54 U.S.C. § 320301 *et seq.*
(Defendant Trump)

196. Plaintiffs re-allege and incorporate by reference all the allegations set forth in this Complaint.

197. Even if President Trump had the authority to abolish the Bears Ears National Monument in whole or in part—which he does not—he could only do so in a manner consistent with the terms and the purpose of the Antiquities Act, and consistent with the proper care of the objects of historic and scientific interest identified in the 2016 Proclamation.

198. When President Obama issued the 2016 Proclamation designating the Bears Ears National Monument, he described the objects of scientific and historic importance that qualified for protection under the Antiquities Act. He also determined, based on the scale and the location of the objects of scientific and

historic interest, that the Monument's boundaries were "the smallest area compatible with the proper care and management of the objects to be protected."

199. President Trump's proclamation eliminating national monument status and protection from 1.15 million acres of the Monument excludes objects of scientific and historic importance from the protection they enjoyed under the 2016 Proclamation, leaving them vulnerable to the very damage that the 2016 Proclamation sought to avoid.

200. President Trump's order is based on considerations outside the Antiquities Act and lacks any adequate legal or factual justification.

FIFTH CLAIM FOR RELIEF
Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*
(Defendants Secretary of the Interior, Director of the BLM,
Secretary of Agriculture, and Chief of the U.S. Forest Service)

201. Plaintiffs re-allege and incorporate by reference all the allegations set forth in this Complaint.

202. The Administrative Procedure Act (APA) confers a right of action on any person adversely affected by a final agency action or a failure to act, and it waives the federal government's sovereign immunity. 5 U.S.C. §§ 701-706.

203. Because President Trump had no lawful authority to abolish, in whole or in part, the Bears Ears National Monument, the Secretaries of the Interior and of Agriculture and their subordinate officers remain subject to the 2016 Proclamation's direction to undertake specific, mandatory duties to protect the special values of the Bears Ears National Monument.

204. Any action by Defendants Secretary of the Interior, Director of the BLM, Secretary of Agriculture, or the Chief of the U.S. Forest Service contrary to the 2016 Proclamation constitutes arbitrary and capricious action not in accordance with the law.

205. As a result of President Trump's proclamation, Defendants Secretary of the Interior, Director of the BLM, Secretary of Agriculture, and the Chief of the U.S. Forest Service will promptly violate the terms of the 2016 Proclamation by managing the lands excised from the Monument under the pre-Monument, less protective multiple-use regime; and by managing the Indian Creek and Shash Jáa units under a significantly less protective regime than the 2016 Proclamation requires. On information and belief, Defendants have no intention of carrying out their duties under the 2016 Proclamation as long as President Trump's proclamation remains in place.

PRAYER FOR RELIEF

WHEREFORE Plaintiffs request that the Court:

1. Declare that President Trump's proclamation of December 4, 2017, is *ultra vires* and exceeds his authority under the Antiquities Act,
2. Declare that President Trump's proclamation of December 4, 2017, exceeds the scope of his authority under Article II of the U.S. Constitution and violates the separation of powers doctrine and the "take Care" clause;
3. Issue injunctive relief invalidating President Trump's proclamation of December 4, 2017, and barring its implementation;

4. Issue injunctive relief against Defendants Secretary of the Interior, Director of the BLM, Secretary of Agriculture, and Chief of the U.S. Forest Service, directing them to carry out the mandatory duties imposed on them in the 2016 Proclamation and enjoining them from carrying out President Trump's unlawful proclamation;
5. Award Plaintiff fees and costs pursuant to 28 U.S.C. § 2412; and
6. Grant such other relief as the Court deems just and proper.

Dated: December 7, 2017

Respectfully submitted,

/s/ Sharon Buccino

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