

REPORT SUMMARY BY U.S. SECRETARY OF THE INTERIOR RYAN ZINKE

In 1906, Congress delegated to the President the power to designate a monument under the Antiquities Act (Act). The Act authorizes the President singular authority to designate national monuments without public comment, environmental review, or further consent of Congress. Given this extraordinary executive power, Congress wisely placed limits on the President by defining the objects that may be included within a monument as being “historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest,” by restricting the authority to Federal lands, and by limiting the size of the monument to “the smallest area compatible with proper care and management of the objects.” Congress retained its authority to make land use designations without such limitations. Even with the restrictive language, use of the Act has not always been without controversy. In fact, even Theodore Roosevelt’s first proclamation of the roughly 1,200 acre Devil’s Tower in Wyoming was controversial. Since that time, the use of the Act has largely been viewed as an overwhelming American success story and today includes almost 200 of America’s greatest treasures.

More recently, however, the Act’s executive authority is under scrutiny as administrations have expanded both the size and scope of monument designations. Since 1996 alone, the Act has been used by the President 26 times to create monuments that are over 100,000 acres or more in size and have included private property within the identified external boundaries. While early monument designations focused more on geological formations, archaeological ruins, and areas of historical interest, a more recent and broad interpretation of what constitutes an “object of historic or scientific interest” has been extended to include landscape areas, biodiversity, and view sheds. Moreover, features such as World War II desert bombing craters and remoteness have been included in justifying proclamations.

The responsibility of protecting America’s public lands and unique antiquities should not be taken lightly; nor should the authority and the power granted to a President under the Act. No President should use the authority under the Act to restrict public access, prevent hunting and fishing, burden private land, or eliminate traditional land uses, unless such action is needed to protect the object. It is Congress and not the President that has the authority to make protective land designations outside of the narrow scope of the Act, and only Congress retains the authority to enact designations such as national parks, wilderness, and national conservation and recreation areas. The executive power under the Act is not a substitute for a lack of congressional action on protective land designations.

President Trump was correct in tasking the Secretary of the Interior (Secretary) to review and provide recommendations of all monuments that were designated from 1996 to the present that are 100,000 acres or greater in size or made without adequate public consultation. This is far from the first time an examination of scope of monuments has been conducted. Existing monuments have been modified by successive Presidents in the past, including 18 reductions in the size of monuments, and there is no doubt that President Trump has the authority to review and consider recommendations to modify or add a monument.

The methodology used for the review consisted of three steps. The first step was to gather the facts which included the examination of existing proclamations, object(s) to be protected, segregation of the objects (if practical) to meet the “smallest area compatible” requirement, the scientific and rational basis for the boundaries, land uses within the monument, public access concerns and authorized traditional uses, and appropriate environmental and cultural protections. As directed by the President, the second step was to ensure that the local voice was heard by holding meetings with local, state, tribal, and other elected officials as well as meetings with non-profit groups and other stakeholders, as well as providing an online format for public comment. The final step was to review policies on public access, hunting and fishing rights, traditional use such as timber production and grazing, economic and environmental impacts, potential legal conflicts, and provide a report to the President no later than August 24, 2017.

The review found that each monument was unique in terms of the object(s) used for justification, proclamation language, history, management plans, economic impact, and local support. Adherence to the Act’s definition of an “object” and “smallest area compatible” clause on some monuments were either arbitrary or likely politically motivated or boundaries could not be supported by science or reasons of practical resource management. Despite the apparent lack of adherence to the purpose of the Act, some monuments reflect a long public debate process and are largely settled and strongly supported by the local community. Other monuments remain controversial and contain significant private property within the identified external boundary or overlap with other Federal land designations such as national forests, Wilderness Study Areas, and lands specifically set aside by Congress for timber production.

Public comments can be divided into two principal groups. Proponents tended to promote monument designation as a mechanism to prevent the sale or transfer of public land. This narrative is false and has no basis in fact. Public lands within a monument are federally owned and managed regardless of monument designation under the Act. Proponents also point to the economic benefits from increased tourism from monument recognition. On this point, monument status has a potential economic benefit of increased visitation, particularly to service related industries, outdoor recreation industries, and other businesses dependent or supported by tourism. Increased visitation also places an additional burden and responsibility on the Federal Government to provide additional resources and manpower to maintain these lands to better support increased visitation and recreational activities.

Comments received were overwhelmingly in favor of maintaining existing monuments and demonstrated a well-orchestrated national campaign organized by multiple organizations. Opponents of monuments primarily supported rescinding or modifying the existing monuments to protect traditional multiple use, and those most concerned were often local residents associated with industries such as grazing, timber production, mining, hunting and fishing, and motorized recreation. Opponents point to other cases where monument designation has resulted in reduced public access, road closures, hunting and fishing restrictions, multiple and confusing management plans, reduced grazing allotments and timber production, and pressure applied to private land owners encompassed by or adjacent to a monument to sell.