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THE POTENTIAL IMPACTS OF LARGE-SCALE MONUMENT DESIGNATIONS

FIELD HEARING

BEFORE THE

COMMITTEE ON ENERGY AND NATURAL RESOURCES UNITED STATES SENATE

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

JULY 27, 2016

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THE POTENTIAL IMPACTS OF LARGE-SCALE MONUMENT DESIGNATIONS

Wednesday, July 27, 2016

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Committee met, pursuant to notice, at 3:00 p.m. MDT at the San Juan County High School, 311 North 100 East, Blanding, Utah, Hon. Mike Lee, presiding.

OPENING STATEMENT OF HON. MIKE LEE, A U.S. SENATOR FROM UTAH

Senator LEE. This is truly one of the most spectacular places on earth.

I have commented to my staff and to some of your local elected officials here today that it is amazing that anyone who ever lived here would ever want to leave because it is so beautiful. And the physical beauty of the surroundings here is matched only by the quality of the people who live here and love their community, people who want to make sure that their community is strong and vibrant and remains a great place for their children and for their grandchildren.

It is no coincidence that every year people travel a great distance, from all over the United States, all over the State of Utah, and indeed, all over the world just to have their breath taken away by the sights of the canyons, of the natural bridges, the rivers and lakes, the valleys and the cliffs and, of course, the Bears Ears Buttes, which incidentally, I visited this morning. We climbed to the top of the east Bears Ears. All these thing are just sitting right in your backyard. But as everyone here knows there is much more to this part of our state than just this natural beauty.

For the people of the Navajo Nation who live here in San Juan County and whose forefathers first settled these canyons many hundreds of years ago, this corner of the world, known as Bears Ears, is not just a place you call home. It is sacred ground. It is a source of meaning, a source of sustenance, a place where you meditate, where you gather and pray and hold ceremonies.

It is what unites the generations of families and tribes forming an organic and permanent bond that connects past, present and future, all in one place and all at one time. Taking care of ancestral land, protecting and preserving it for the next generation, is not optional for many Native Americans. It is a sacred duty, it is part of life, and it is part of their tradition and their deeply rooted religious belief.

Now the same is true in my own faith, as a lifelong member of the Church of Jesus Christ of Latter Day Saints. I believe that pursuant to church teachings that God has created this earth for the benefit of man and that man has a sacred duty to use this earth wisely and prudently with thanksgiving and with concern for those who will live in future generations.

The people of the Navajo Nation, living in San Juan County, have always faithfully fulfilled this responsibility in the Bears Ears region caring for their homelands and respecting for as long as anyone can remember, just as their forefathers did, the cultural lifeblood of the Navajo people of Southeastern Utah.

Take away their access to the land, restrict their stewardship over the bounty, and it may not be long before their culture begins to suffer as a result. You can't take that away, not without doing serious damage. Yet, that is exactly what the Obama Administration is contemplating with the potential national monument designation in the Bears Ears region.

I would like to put forth four goals, four simple goals, that, I believe, are most likely shared by everyone in this room, by the people of San Juan County and, I believe, even by the White House. First, we need to protect Bears Ears for future generations to enjoy just as we today enjoy it and just as our forefathers going back centuries have enjoyed it. Second, to continue in perpetuity, Native American use of the land that has spiritually and physically sustained them for many hundreds of years. Third, establish Native American co-management of the Bears Ears region. And fourth, preserve multiple use of lands where doing so does not conflict with conservation goals.

Now if these are our shared goals, history proves that they cannot be achieved if we try to pursue them by simply having the President of the United States, from a distant perch in Washington, DC, designating Bears Ears as a national monument. The Antiquities Act, which the President would use to make a national monument designation, simply does not allow for the inclusive, grassroots-based, land management required by these shared goals that I have outlined. That is the bad news.

But the good news is that there is a better way, and it is called the Public Lands Initiative (PLI) which is a piece of legislation that has been written to achieve what a monument designation cannot. Instead of simply hoping that current and future land managers will cooperate and work equitably with the people of San Juan County, the PLI would codify into law clear and fair land management guidelines that ensure that Native Americans and other residents of San Juan County will be actively involved in the preservation of Bears Ears.

The PLI is different than the proposed national monument in this respect because unlike the proposed national monument, the PLI requires no leap of faith, no leap of faith that suddenly without any standards agreed upon in advance, Federal land managers are just going to work cooperatively with local residents.

Before we introduce today's witnesses, it is worth acknowledging who is not here, who is not in the room with us, who is not present for this field hearing today.

Among those people who are not with us today are officials from the United States Department of the Interior and officials from the United States Forest Service as well as members of the group that calls itself the Bears Ears Coalition. Now just to be clear, they were all invited, Representatives from each of those entities were invited but they declined to participate in today's hearing. This, I believe, is proof that we did not try, as some may suggest, to "stack the deck" with our panel of witnesses today.

We would have preferred, of course, to have had witnesses from opposing viewpoints so as to clarify the debate. That is exactly why we began scheduling this hearing well over a month ago, to give everyone from all sides of this issue enough time to plan to be here as we try to find consensus on this important issue.

But I cannot force the Obama Administration, I cannot force representatives of the U.S. Department of the Interior or the U.S. Forest Service, and I cannot force members of the Bears Ears Coalition to sit down and speak to you today. They would have to do so voluntarily and they have chosen to decline our invitation to do that.

While I was pleased that Secretary Jewell and other Federal officials visited Utah a couple of weeks ago, Governor Herbert and the Federal delegation were unable to join because of the voting schedule of the U.S. House of Representatives, the U.S. Senate and the official business of the National Governor's Association. I had hoped that today's hearing, which Secretary Jewell has known about for over a month, could have served as an opportunity for at least someone in the Administration, if not Secretary Jewell herself perhaps a representative, to engage with those of us unable to make the trip last week and to those of you who tried to attend but were unable to do so because of the significant space constraints that kept many people from attending that meeting.

Sadly, their absence here today seems to fit within the long standing pattern. After members of the PLI requested a meeting with the Bears Ears Coalition to discuss updates to the initiative, leadership of the Bears Ears Coalition responded. They responded and said, "We respectfully decline your invitation. We are satisfied that a Bears Ears National Monument, proclaimed by President Obama under his authority granted by the Antiquities Act, presents the best opportunity to protect the Bears Ears landscape and to assure a strong, Native American voice in monument management."

But the debate over the future of Bears Ears is far from finished much as some would like to pretend otherwise. Everyone here, the fact that you are here, the fact that you have given up a perfectly good block of time in the middle of perfectly good week to be here, demonstrates this debate is not over, that it should not be over.

We hope that the Bears Ears Coalition will reconsider and will meet with us to discuss how best to preserve Bears Ears and how best to preserve Bears Ears in a way that is consistent with the will and the wishes of the people most directly affected by any action taken in this area. My door is always open.

As a matter of housekeeping, I would like to remind everyone that this field hearing today is the same as a hearing in the United States Senate. Even though we are not in Washington, DC, this is a hearing of the U.S. Senate Energy and Natural Resources Com-

mittee. We are here to gather information from witnesses and examine a very important issue near and dear to our hearts, the impact of large scale monument designations. The regular rules that would apply to a Senate hearing will also apply here.

In order to allow for time to answer questions and have a bit more dialog with everyone who took the time to travel today, we will transition to a town hall format immediately following the conclusion of this formal hearing. Governor Herbert, Chairman Bishop and I will answer questions about PLI or a national monument, and I will invite audience members advocating for a national monument to join us in that conversation which, again, will occur immediately following the formal portion of this Committee hearing. To ensure that all perspectives are heard, time will be evenly divided between opponents and proponents of the national monument during the town hall section of this meeting.

Before introducing our esteemed witnesses who have generously joined us today, I would like to take a moment to thank Principal Bob Peterson and the entire staff of the San Juan High School for graciously allowing us to use this facility today. Let's give them a round of applause. [Applause.]

Senator LEE. Principal Peterson, where are you? There he is. Give him another round of applause. There he is right there. [Applause.]

Senator LEE. Okay. It is now time for us to hear from our great panel of witnesses.

As a reminder to each of these witnesses, you will each have a few minutes to present your oral testimony that you prepared in advance. Any additional written testimony will be accepted for the record for two weeks following today's hearing. So feel free to supplement the record with any additional material, if you would like to do so, but do it within 14 days.

After all witnesses complete their opening statements, we will follow with a round of questions before finishing the hearing and moving on to the town hall meeting.

Our first witness, who I am now pleased to announce, is the Honorable Gary Herbert, the current Governor of the State of Utah.

I would like to thank you, Governor Herbert, for taking the time to be here today and for taking time out of your busy schedule to be here with us in Blanding to share your thoughts.

Governor Herbert? [Applause.]

STATEMENT OF HON. GARY HERBERT, GOVERNOR, STATE OF UTAH

Governor HERBERT. Well thank you, Senator Lee, and I'm honored to be here with you.

For the record, I am Gary Herbert, Governor of the great State of Utah, and honored to be here to talk about what I think is a very important subject for the entire State of Utah, not just for San Juan County, but for the entire State of Utah and beyond our borders. I know this is an important discussion and thank you, Senator Lee, for holding this important hearing.

I appreciate the invitation to come here and speak on behalf of the people of Utah. We have differences of opinion on this issue.

I understand politics, you know, and sometimes the media seems to emphasize the differences we have on different issues.

I'd like to just remind everybody that I think this is an issue that most of us have some consensus on. You've, kind of, already highlighted that, Senator Lee, by talking about the desire that most everyone has to have some kind of preservation of the Bears Ears area, to preserve and protect those uniquenesses that we find in that beautiful part of our state here in San Juan County.

And so, as we talk about this, the discussion really is we don't have opposition to the protection. But really the discussion seems to be revolving around how we, in fact, implement protection of the Bears Ears area. And how should we, in fact, go about that? Process does count, and I think that's important for us to all to remember of the process that we're involved with here on either side of this issue.

As we talk about this today, I hope we don't lose sight of the fact we have consensus on preservation and protection. We have a common goal, so the discussion really should focus around how best to achieve this shared goal.

And I hope that tomorrow's media headline, rather than emphasizing the differences and the divisiveness, emphasizes the consensus and the common goal that most everybody has about the preservation and protection of the Bears Ears.

Now as I get into my view of this thing, let me just mention a key principle that I think pertains to most all of us as we see the effective use of government power. We've heard the phrase many times that government closest to the people governs best. That's because it's reflective of those who they're nearest to.

I believe that states have a significant role to solve problems of most of the issues that we talk about today. And with all due respect to those in Washington, DC, I think that the fact solutions come better from the states and the local governments on most issues whether it be health care, human services, education, for example, public safety and yes, even the public lands.

Certainly those who have it in their backyard, that bear the brunt of what other decisions are made regarding the public lands ought to have their voices heard, considered and respected as part of the ability to come up with the appropriate and final solution. I would say that no one, I do mean no one, understands the challenges that are uniquely local, for public lands from those who live next door and amongst the public lands and so our citizens here should be heard.

This principle we call federalism, and I know Congressman Bishop has been a big champion for the idea of shared responsibilities, is something that I've championed as the Chairman, as you know, Senator Lee, for the National Governors Association. States finding solutions and solving people's problems at that level seem to be much more effective in getting things done as we look around this great country. That follows with, kind of, the principle I see here in solving this particular challenge and unique problem that we face here.

I also believe in accountability. Those who are elected by the people bear the burden of accountability of those who have put them into office. I think that is much more germane to the issue than

some unelected bureaucrat in Washington, DC that really has not seen, been here or very seldom understands the backyard of the people here each and every day. So that accountability that we have and owe to our citizens of this state is best borne by those who are elected to the office.

One of the biggest lessons, I think, we've learned over time is that local input is critical to getting success and to get buy in to whatever the solution is to the problem at hand. And I think there's a significant difference to we, the people of Utah, who have something done to us as opposed to something that's done with us. And we've seen that, significantly, 20 years ago when we had the Grand Staircase Escalante Monument in 1996 when we feel as a state that something was done to us and not with us.

The process was, in fact, closed. There was not openness. There was not transparency. In fact, that from the highest office in the land, we were in fact lied to, Senator, about what was going to happen on that designation. And consequently, the results are 20 years later, we still have animus anger and distrust for the Federal Government because of that lack of process and having something done to us that we have evidence of visceral anger still today because of that process.

That being said, process matters. Again, I think people can get together around the table and talk about their differences and deal in good faith. And I think that's what the intent has been here to deal in good faith.

So, we have two different competing arguments here. A national monument designation by one person who says with the wave of a hand this is what's going to be, or we have a process that would be done legislatively that's taken many years in the process of bringing people to the table, led by Congress and Rep. Bishop and others of our congressional delegation and saying let's see if we can't build a consensus and pass something legislatively that, in fact, will give us something that we feel like we've been participant in as co-partners in this as opposed to done to.

And so, again, I know that sometimes that's hard. It's not easy. It's much easier to be a monarchy. It's much easier to be a dictator and say this is how I decree it.

It's much more difficult, in fact, to bring people together and discuss the issues, the pros and the cons and reason together and find compromise. And some people don't like compromise. It's my way or the highway.

But again, I think, for us in Utah, we understand that compromise is not a dirty word and something that is necessary to find the good for the whole.

Again, I appreciate that aspect of what's being done here and I appreciate Congressman Bishop having over a thousand different public meetings in trying to bring consensus and bring people together.

Not doing this has a host of negative consequences that we'll have, that can take place. And again, we know people have different points of view but I think what we have with the PLI now, the Public Land Initiative, is, in fact, somewhat of a culmination of much work and effort by many people and not just the result of some kind of media hype or out of state or out of area lobbying

campaign or editorial campaign as opposed to really hearing the voice of the people.

I think, as you can tell, I'm in the camp of doing this legislatively as opposed to a national monument. I think it's the best way to bring consensus and bring good will out of the end product. There's probably a lot of reasons that we'll talk about here this afternoon about why this is a better way, but it's the only way we can truly guarantee the outcome is through legislative action. You've already touched on that, Senator Lee, that the only way we can have a guarantee of the outcome and the process of management going forward is through legislative action.

I expect, and Congressman Bishop can talk to this, that the current version of the PLI is not the final edition. I expect there's opportunities to modify in some way and fine tune it to address some of the issues that, maybe, have been raised since it's been released.

But I believe that the PLI represents our best chance to find a way to find, kind of what I call, the messy middle. Not everybody is always happy about the middle, but compromise is what we need to look for here in this process and I think the PLI gives us a chance to do that.

Let me say a couple more things, if I could, before I sign off, and I have extended my remarks which will be on file for you to look at.

But again, I mention the fact that, you know, the challenges that we uniquely saw with the national monument enforcement, again, this Grand Staircase Escalante monument, 1.9 million acres. They have one forest ranger to enforce, law enforcement, to take care of the management responsibilities on that area, and that's way too few when it comes down to it. If you don't have local buy in it makes it very difficult, in fact, to manage the properties.

The Grand Staircase Escalante National Monument Management Report for 2014 read this way, "Grand Staircase Escalante National Monument is experiencing constantly increasing recreational use as a result of national and international advertising, promoting as an iconic canyon country destination. This presents management challenges balancing use with adequate protections of the monument's objective and values. Increased backcountry visitor impacts include increased graffiti, human waste issues, water quality concerns and parking congestions. Dispersed campsites are proliferating. Plain efforts are needed to ensure adequate use of management and resource protection."

Now that costs money and resources. I don't think that those who've been arguing for protection of Bears Ears want to see that kind of end result. And so, just doing it as a national monument, I think, has unintended consequences which I think, in fact, our Native American brothers and sisters would not like to see happen.

This last year the Grand Staircase Escalante had 1,400 reported cases of vandalism. According to the BLM there have been only 25 cases of vandalism reported in the Bears Ears region since 2011. I'll say it again, 1,400 cases of vandalism on the Grand Staircase Escalante last year alone and only 25 cases since 2011 in the Bears Ears area. That's 1,400 times more common vandalism in an area that we want to respect and treat as sacred lands.

Let me just give you some comparison numbers too, Senator. As we look at the size and magnitude of this monument, 1.9 million acres being proposed, it's by comparison larger than the entire State of Rhode Island, just over, we have about 3,000 square miles in the monument. Rhode Island is 1,200 square miles.

Rhode Island currently has 93 state troopers to patrol an area that is, again, about 40 percent larger or smaller than the Bears Ears region. They have, BLM has two full time officers assigned on patrol to protect the entire Bears Ears region.

And Rhode Island, Providence, the responsibility for that area is comprised of 20.5 square miles that the Providence Police Department has a budget of $69 million last year, $69 million.

Just so, again, for comparison the entire budget of the BLM National Conservation Lands System nationwide, Senator, you know this probably as well as anybody, responsible for over 50,000 square miles of protected lands, is only $64 million.

So the resources to be committed to this thing are going to be sparse, indeed, if we look at the reality.

So proper protection, I think, is important. But cooperation of the local community is to have buy in is why I think the PLI presents us with the best option.

A unilateral monument designation will divide the people, not only here in Utah, but elsewhere. I think division is not healthy for what we're trying to accomplish with the Bears Ears region.

On the other hand, a legislative consensus solution like the PLI as proposed by Congressman Bishop has the potential to bring people together to ensure local cooperation and put in place a durable solution not only for the short-term, but for the long-term benefits of the people of Utah, the people of San Juan County, our Native American friends and for the people of America. It will give us the best long-term benefit in protecting and conserving public lands on nearly 18 million acres outside of just the Bears Ears region.

So the intended consequences of the PLI must go beyond just the Bears Ears area and a national monument creation would knock that all out the window and eliminate all the potential we have with the PLI that goes above and beyond the Bears Ears.

So there is a right way to do this, I believe, and a wrong way to do it. The process involved with the PLI is, in fact, the right way. And my sincere hope is that with your help and the congressional work of the House and the Senate, that we can show that the current Administration of President Obama and his folks that this is a better way.

If you really care about the land this is not some kind of a political tomahawk to be used, no pun intended. If this really is about, in fact, the Bears Ears region, protecting, conserving the land, the PLI is by far, the superior way to go about doing it.

So thank you for giving me the time. [Applause.]

[The prepared statement of Governor Herbert follows:]

Gary R. Herbert
Governor of the State of Utah

Testimony before the

U.S. Senate Committee on Energy and Natural Resources

Oversight hearing on

"Potential Impacts of Large-Scale Monument Designations"

Wednesday, July 27, 2016

Good morning. I am Gary R. Herbert, Governor of the great state of Utah.

Please allow me to thank you, Senator Lee, and my esteemed colleagues in Utah's congressional delegation, for holding this important hearing.

I appreciate you inviting me to share with you and the good people of San Juan County some thoughts on national monuments, and for the chance to discuss what I think is the best way to protect and preserve one of the most beautiful areas of Utah and the world.

Having served in public office for a number of years, I've noticed that politics is often portrayed as a never-ending conflict. Media coverage of politics – of debates on legitimate differences of opinion the appropriate ends and means to achieve policy goals – tends to emphasize the areas where we differ rather than where we agree. This can lead us to lose sight of the big picture.

For example, while there is meaningful disagreement about *how* to protect the Bears Ears region, there is virtually zero opposition to the idea that this precious area *should* be protected. Everyone in this room believes that the Bears Ears region has natural wonders and scenic vistas that need to be protected. Everyone in this room acknowledges that this region contains resources, remains, and artifacts with immeasurable historic, cultural, and religious significance that must be preserved for future generations. Let's not lose sight of this consensus.

Let's not lose sight of the fact that we share a common goal. The only difference you'll find here today is how best to achieve the shared goal of conservation and preservation. Let's hope that our mutual commitment to the protection of this area is the media headline tomorrow, and not an undue or exaggerated focus on a disagreement over tactics.

Before I get into detail about my vision of how this area should be protected, let me take a brief moment to explain the key principle that forms the foundation for my thoughts on this matter. I firmly believe that states can and should find their own solutions – tailored to their unique circumstances. This principle applies to nearly all policy issues, including those of national importance like healthcare, education, environmental protection, and, yes, public lands.

No one understands the challenges that confront a state, and the opportunities available to a state, better than the people who reside there. No one is more committed to the most effective use of limited resources for the best possible outcomes, for both our lands and our citizens, than those who will directly live with the consequences of those decisions.

This principle of federalism, or of self-determination, is at the core of my policies. Indeed, the idea of "States Finding Solutions" was the theme I chose to highlight as my Chair's Initiative this past year while I served as the Chairman of the National Governor's Association.

I believe that decisions are best when they are made at the lowest level possible. I believe that local, ground-up solutions are nearly always superior to decisions made from the top-down or by people far from the problem at hand.

I also believe that accountability is critical for good public policy. The elected officials in this room – county commissioners, legislators, congressmen, senators, governors – were all elected by the citizens of Utah and are accountable to them in a much more real and tangible way than an unelected bureaucrat in Washington.

One of the biggest lessons learned in land management policy over the past several decades has to do with the importance of local input. There is an enormous difference between something being done *to* you, and something being done *with* you. The Grand Staircase Escalante National Monument designation in 1996 is an example of something that was done *to* the people of Utah. They were not involved in the decision-making process. They were excluded from any meetings and discussions. They were even lied to about its pending designation.

The results of this exclusionary, top-down process? 20 years later there is still a deep-seated, heartfelt, even visceral anger, about the Grand Staircase Monument. To this day, it divides local communities and has helped breed animosity and a sense of disenfranchisement amongst local residents. The Grand Staircase is a perfect example of how **not** to make a land management decision. Doing things *to* people rarely results in a positive outcome.

To that point, while we all agree the Bears Ears region should be protected, there is disagreement about how to do so. There are some you will hear from today who believe that a national monument designation is the best way to protect this area. You will hear from others who attest that a legislative solution is a superior mechanism to protect the Bears Ears. Let me be clear: I am strongly in the latter camp.

I've always been a strong believe that process matters. Some people, my staff included, have joked about how I seem to be one of those rare individuals who actually enjoys meetings. It is not that I love meetings per se, but it is because I recognize that meeting together – bringing people around the table to work toward a consensus – is typically the process by which good decisions are made.

It would certainly be easier to make decisions on my own without consulting anyone else. Monarchies are efficient. But decisions made alone or in small groups often miss out on important perspectives and information that is available to larger groups. An open, public process is more difficult. It takes more time. It is messier than a unitary decision making process. An open and inclusive decision-making process is more difficult. A deliberative, public process takes more time and effort, but it leads to better, more accepted, and more durable outcomes.

This principle applies to the Bears Ears and the discussion we're having today about the best mechanism to protect this area. It certainly would be easier for an unknown federal official to draft a monument declaration behind closed doors and for the President to sign it. No one doubts that would be the quickest way to move forward. But I believe that a quick and exclusionary process to declare a monument would lead to a host of negative consequences that will be borne by the people of Utah for decades.

On the other hand, a legislative solution, one that has support both locally and nationally, is a clearly superior model to reach consensus. Congressman Bishop has been undertaking such an approach with the Public Lands Initiative for the past three years. This process to find common ground has included over 1,200 meetings. It has taken input from a wide array of stakeholders. It has been an open, inclusive, collaborative, and public process.

It has also been a little messy, and not without controversy and accusations of bad faith. But I think the bill that was unveiled July 14, 2016, represents a closer articulation of what the public actually wants than a unilateral monument designation ever could.

Congressman Bishop's bill is the culmination of an open and deliberative effort to gather the best ideas from all sides. It is the result of a transparent and public process to get input from local citizens and stakeholders, and not from media, editorial, and lobbying campaigns by out-of-state interest groups.

The PLI incorporates meaningful and appropriate environmental protections, including conservation and wilderness designations that protect fragile and pristine areas for future generations. It also promotes local economic benefits, including increased opportunities for heritage, cultural, and eco-tourism, outdoor recreation, SITLA land exchanges, land conveyances, responsible energy development, and local infrastructure needs.
The PLI also allows for continued access for traditional tribal cultural and religious activities, and sets up a mechanism for ongoing local and tribal input in management decisions. To be clear, and despite much of the rhetoric we have heard, these issues of access and management can only be truly guaranteed through legislative action.

The current version of the bill is likely not a final product. There is still work to be done. But I, along with Congressman Bishop and many others, believe the timing is right for a deal to be brokered. Events have converged to provide Utah a unique opportunity to accomplish something truly remarkable – protect Utah's wild places and cultural resources, while at the same time, strengthening Utah's economy, enhancing outdoor recreation opportunities, and increasing much needed school funding. The PLI represents our best chance to find the messy middle ground and will result in a protection of this area that is defensible, inclusive, and durable.

Problems of Monuments

I have already mentioned a few of the numerous negatives consequences that would accompany a unilateral monument designation. Let me take a moment to focus on another.

In all this, one important thing to keep in mind is that a monument designation does not, in and of itself, equate to greater protections of environmental and cultural resources, as previous monument declarations have shown.

Historical and cultural resources – including archeological and historical sites, pictographs and petroglyphs, human remains and funerary objects – are already protected under various federal laws. However, enforcement of these existing laws on federal lands is inconsistent, at best.

The Grand Staircase-Escalante, for example, only has one law enforcement ranger to patrol its 1.9 million acres. Nationwide the BLM only has a total of 200 rangers to patrol 245 million acres. That is one ranger per 1.2 million acres, on average.

While increased protections and law enforcement do not flow from monument designations, the record shows that monument designations do bring an increase in visitation, which can then further endanger the resources.

In the Grand Staircase-Escalante National Monument Manager Report for 2014, we read, "Grand Staircase-Escalante National Monument is experiencing constantly increasing recreational use as a result of national and international advertising promoting it as iconic canyon country destination. This presents management challenges balancing use with adequate protections of [the monument's] objects and values. Increased backcountry visitor impacts include increased graffiti, human waste issues, water quality concerns, and parking congestions. Dispersed campsites are proliferating. Planning efforts are needed to insure adequate use management and resource protection."

In 2015, the Grand Staircase-Escalante had 1,400 reported cases of vandalism. According to the BLM, there have only been 25 cases of vandalism reported in the Bears Ears region since 2011. That means the Grand Staircase, with its monument designation, currently experiences 140 times the rate of vandalism as does Bears Ears region.

Please do not misunderstand me: a single case of vandalism in this area is too much. But the point remains, if we wish to protect and preserve this area, drawing lines on a map that will encourage increased visitation without a corresponding increase in law enforcement and land management resources is not a solution to vandalism and desecration problems. Indeed, it will like worsen them.

Let me use a comparison to further illustrate this point:

- The Bears Ears region being considered today is approximately 1.9 million acres. This is the equivalent of just under 3000 square miles.
- For comparison, the entire state of Rhode Island is just over 1200 square miles.
- Rhode Island currently has 93 state troopers to patrol an area that is, again, about 40% of the Bears Ears region being considered, and that number does not include administrators, or special agents or units.
- The BLM currently has **two** full-time officers assigned to patrol and protect the entire Bears Ears region.
- The police department of the capital of Rhode Island, Providence, is responsible for an area that comprises 20.5 square miles. The Providence Police Department had a budget of **$69 million** in 2015.
- Meanwhile, the entire budget for BLM National Conservation Lands system nationwide, which is responsible for 50,000 square miles protected lands, was only **$64 million**.

Proper protection of historical and cultural resources on federal lands requires adequate federal resources, yes, but it also requires the cooperation of local citizens, local law enforcement, local conservation and research groups, and more. A unilateral monument designation – doing something *to* the people of the Bears Ears region instead of *with* them – will provide a disincentive for local cooperation.

Conclusion

To summarize - it is my belief that a unilateral monument designation will divide the people. It will create anger and division. It will provoke protest and may inhibit our ability to resolve tough public land management decisions for decades to come. Even worse, a unilateral monument designation of the Bears Ears will not protect irreplaceable resources, and will, in fact, likely result in the same kinds of increases in vandalism, looting, and environmental degradation that has been documented in the Grand Staircase.

On the other hand, a legislated, consensus solution like the PLI has the potential to bring people together, ensure local cooperation, and put in place a durable solution. Furthermore, congressional action is the only way to guarantee traditional tribal uses of the land, guarantee local input into land management decisions, and to provide the funding resources and tools needed to properly protect this precious region of our state.

It is my strong belief that a legislative solution – one built from the ground up with real involvement from local residents, tribal representatives, county officials, the state legislature, recreation and environmental advocates, energy and access interests – will inevitably create a

better outcome, one with more buy-in and with more lasting power, than a decision made behind closed-doors in Washington D.C.

There is a right way and a wrong way to preserve the Bears Ears for future generations. It is my sincere hope that the President and his administration will learn from history and take the time needed to work with the people of Utah, our state legislature, and the congressional delegation to do it the right way. Please, do this with us, not to us.

Thank you for the chance to share my thoughts with you today.

Senator LEE. Thank you very much, Governor Herbert, for your testimony.

We are now going to be privileged to hear from our next witness, who is Congressman Rob Bishop. Congressman Bishop represents Utah's first congressional District. He is also currently serving as the Chairman of the House Natural Resources Committee, and as Governor Herbert just mentioned a moment ago, he has held more than a thousand meetings around the state as he has worked relentlessly to put together his Public Lands Initiative.

Congressman Bishop?

STATEMENT OF HON. ROB BISHOP, REPRESENTATIVE FOR THE STATE OF UTAH, UNITED STATES HOUSE OF REPRESENTATIVES

Mr. BISHOP. Well, thank you. And I appreciate—— [Applause.]

That was nice. If you do it when I finish, then I'll be impressed, but—— [Laughter.]

I'm not finished yet. [Laughter.]

Anyway, thank you.

I'm happy to be back here with you, and I appreciate the invitation. I feel saddened that many in the Administration have not taken the opportunity of joining us here in an official Senate hearing which would have been extremely healthy.

I also realize that there are some people that have said this hearing is biased. There is one thing I want to say about that. Of course it's biased, this is a Senate hearing. Everything the Senate does is biased. If it was on the House side, everything would be cool. We'd be great. [Laughter.]

Nothing personal, but that's right.

I do want to spend a second talking about the history of the Antiquities Act and then something also about PLI, especially as it relates to Bears Ears.

The Antiquities Act was passed in 1906. I hope people realize there were only 46 states in the nation then. There was no Park Service, there was no BLM and there were very few environmental laws, in fact, none at all.

In the debate on the floor of the House for that Antiquities Act Congressman Lacey turned to a Western Congressman by the name of Stevens and said what we're trying to do is preserve old objects of special interest which simply meant that the purpose of Antiquities was to find a specific archeological, scientific or historical thing and preserve it.

Unfortunately, some Presidents have made like a Marine National Monument and the antiquities was a whole bunch of fish. Grand Staircase Escalante I asked Katie McGinty was the specific entity was and she said well, there's a lot of interesting plants. Plants and fish are not antiquities.

The second element was it had to be in immediate danger. So, for example, President Obama did Cèsar Chàvez's home. Now that's an antiquity, a thing, but it was not in any danger of immediate harm.

The third element was it was always supposed to be in the smallest area possible. So on the debate they actually thought of amending the bill and they debated it on the House floor and the discus-

sion was whether they should put a limit on how big these monuments would/should be and the discussion was whether they should be 320 acres or 640 acres, not 1.9 million acres. [Applause.]

Unfortunately, when they wrote it they didn't put a specific number in there. They just said the smallest footprint possible. But you realize what the three things that we're talking about concluded.

Now if this is all about management by the Administration, it's already Federal land. The Administration has all sorts of tools from NEPA and FLPMA and everything else. This has got to be something more than simply about management. I think there's a political aspect to this which is sad.

It is also going to be sad that lots of presidents have used the Antiquities Act, both Republican and Democrat. Well, big deal. The ones who have used it have used it sparingly. FDR was elected four times, four terms. He only did use the Antiquities Act four times and one of those was overturned.

If you go from like the mid–1960's to the mid–1990's, that 30-year period, they had seven presidents. Only one of those seven presidents used the Antiquities Act, of course, he used it 15 times. But there was only one who used it in that time period.

So, to me, there are three presidents, who in my estimation, have not used it but have abused it. Most presidents do one, two, maybe three monument designations. Jimmy Carter did 15. Bill Clinton did his first one in his re-elect which was Grand Staircase Escalante and then 21 more as he left the door. And Barack Obama is trying to break that record now. It's seven in his first term and now he says he wants to have a legacy. To me, that's an abuse of it.

Now, as much as I think the Antiquities Act is a legislative function mistakenly given to the Executive branch and the criteria is ignored today and the practice is abused today, there is still a better way of doing conservation efforts. And I think the PLI initiative is what we're trying to do.

It's been frustrating because we're trying to bring people who have never really compromised together before to actually compromise. That's frustrating, and it's taking a long time.

But I think we do have a good bill. And specifically for this area for Bears Ears, we have a better way of preserving the area by having two conservation areas plus some wilderness gives flexibility for those who want to use it for the traditional activities as well as those who want to conserve it.

But the important part to remember here is that it can only be done if you actually write it in statute. For Grand Staircase Escalante, the proclamation said grazing rights would be preserved. They haven't been. They eventually change as time goes on which is one of the reasons why we should do this statutorily not in some proclamation that has not guaranteed what the future will be.

That means that when we talk about management of this area, the management practice that is currently in this bill is the management that is legal now without changing any legislation.

What the Administration has promised that they would like to, as a co-management, cannot legally be accomplished by the Administration.

But Senator, the Senate and the House can. If we were to put that statutorily into practice, then it could be done. And I think, to me, that's the key element that you have to realize what the Administration has promised us as far as management of this land cannot be done. They cannot deliver.

But congressionally, in statute, they can, we can deliver it and we could make sure that it is guaranteed and stayed there permanently.

So, they may talk about executive orders of the past, even Freedom of Religion Act. In all of those they are still dominated by the underlying legislation saying the Secretary of Interior shall do everything they talked about to the extent practical. That's the phrase I'm trying to get out of every piece of legislation coming through my committee, because it is too nebulous and it never guarantees what will or will not be the practices.

It also has no cause of action. If you think the Administration is doing something they weren't supposed to do than what they promised, there is no legal recourse about it. You're stuck. That is something that can be changed.

And I'm going to tell you right now, unfortunately, I think the bill is done. I don't want to change it a whole lot but there is one thing I'm willing to fine tune and fine tune the management concept so that we can put into statute what will and will not be accomplished in there. We can actually have some kind of cooperative co-management practice but doing it the right way. A Presidential Proclamation cannot guarantee squat.

Thank you. [Applause.]

Senator LEE. Thank you very much, Congressman Bishop.

We are going to be privileged next to hear from Bruce Adams. In addition to being a San Juan County Commissioner, Bruce Adams is additionally qualified to testify before us because he is a fourth generation rancher and knows this land as well as anyone.

Commissioner Adams?

STATEMENT OF HON. BRUCE ADAMS, COMMISSIONER, SAN JUAN COUNTY (UTAH)

Mr. ADAMS. Thank you, Senator Lee. [Applause.]

I want to thank you on behalf of the San Juan County Commission for holding this hearing. In my lifetime I'm not aware of any hearing by the Senate ever in our county. There may have been. I'm only 67, so. [Laughter.]

But thank you so much for doing this for not only us, as commissioners, but for this constituency that is here today. They appreciate it very much I know.

Senator LEE. Thank you. [Applause.]

Mr. ADAMS. As you stated I am a public land grazer. I'm in the cattle business so I'm here to represent the grazing community, to represent farmers and ranchers in San Juan County.

I also want to make some comments about the city's watershed, both in Monticello and Blanding, if you'll allow me to do that.

First of all, a historical perspective might help you to understand the history, the grazing history in San Juan County.

In 1879 families loaded into 80 wagons in Parowan, Utah and began a journey to San Juan County. They brought with them

1,000 head of horses and cows. The purpose of this expedition was to establish a settlement among the Native American people and help them with their domestic needs. Even though the settlers encountered some hostility at first, they soon became great friends.

After these families settled in what would be known as Bluff, Utah, four families moved to the base of the Blue Mountains and established the beginnings of the present day community of Monticello. When these early settlers arrived at the base of the Blue Mountains, they were met by the LC and Carlisle cattle companies. These two cattle outfits were composed largely of Texas cowboys and outlaws hiding from their misdeeds.

The grass was so plentiful in the area it is a matter of historical record that each cattle company was running nearly 10,000 head of cattle, 10,000 yearlings, east of Monticello and down in the Verdure Creek drainage. At this time grazing was free and unregulated.

As a result, these grazing companies, along with others, overgrazed the land in the name of quick profitability for their investors and with little regard for the land which they were grazing. The early settlers were anxious to find a place not being grazed by the large companies, to graze their cattle that they had brought with them from Parowan.

In the meantime, the Federal Government was developing policies for grazing public land and in 1934 passed the Taylor Grazing Act. It was signed by President Roosevelt and was intended to, and I quote from the record, "stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for the orderly use, improvement, and development, to stabilize the grazing of the livestock industry dependent upon the public range." This Act was welcomed by the livestock men here in San Juan County, and it brought stability to the settlers who depended on grazing the public land for their livelihood.

On July 16, 1946, the Grazing Service and the General Land Office merged to form the Bureau of Land Management, or BLM. The BLM was in charge of the grazing permits that exist even today. These grazing permits have great value to the decedents of their ancestral families who obtained the rights to graze over 150 years ago. Many of the original grazing permits are still part of the family heritage that exists today.

I would like to tell you the history of the BLM grazing permit I graze my cattle on. The first holder of the grazing permit was a man named Darryl Redd. He passed that permit on to his son, Lemuel Hardison Redd, and then through the guidelines of the BLM I obtained the permit from him. Only three individuals have ever held the rights to graze that permit.

I could give you many examples of families who have obtained grazing permits from their settler ancestors. I just want to point out that these grazing permits are part of our heritage and obviously have great value to San Juan County with the families continually participating in grazing throughout each generation.

Agriculture is one of the most important industries in this county. In fact, it ranks in the top two for economic importance in the county. When you are raised in a family that depends on cattle grazing, it becomes part of your soul and fiber. You live and

breathe the cattle business. You raise you children to love the land and take care of it so that it will take care of you.

Cattlemen are the original environmentalists, because they could see the value of good land management. We welcome new ideas and improved management practices, but with only eight percent private property in this county we must be able to graze public land.

Congressional Code Title 43, Chapter 8A, Subchapter 1–51b states, "Preference shall be given to issuance of grazing permits to those within or near a district who are landowners engaged in the livestock business."

State Code 63–38d–401(6)(m) includes state policy for public land grazing and supports grazing of domestic livestock.

I am not sure what a new monument in San Juan County would do to livestock grazers, but I can tell you what has happened in Garfield County, Utah after the designation of the Grand Staircase Escalante monument.

One hundred six thousand AUMs were permitted at the time of the Grand Staircase Escalante National Monument creation. Approximately 40,000 were actually used in 2015, a 60 percent cut. Seedlings and vegetation treatment have not been maintained due to restrictive regulations. Prohibition against the non-native seeds have reduced range land health. Maintenance and improvement of water development has largely been eliminated. Monument designation has attracted visitors creating conflicts with pre-existing livestock operations. Monument designations have closed roads and reduced access to range improvements and allotments. Land use restrictions and zoning regulations have complicated feeding, watering, herding, and managing livestock operations. Monuments always reduce AUMs. [Applause.]

Watersheds of both Blanding and Monticello are included in the proposed Bears Ears National Monument. That would devastate the communities of Monticello and Blanding.

I urge you to do everything you can to stop this monument from happening in San Juan County.

Thank you. [Applause.]

[The prepared statement of Mr. Adams follows:]

July 27, 2016

Testimony of Bruce B. Adams

A historical perspective might help to understand the grazing history in San Juan County. In 1879 families loaded into 80 (eighty) wagons in Parowan, Utah and began a journey to San Juan County. They brought with them 1000 (one thousand) head of horses and cattle. The purpose of this expedition was to establish a settlement among the Native American people and help them with the domestic needs that they had. Eve though the settlers encountered some hostility at first, they soon became great friends.

After these families settled in what would be known as Bluff, Utah, four families moved to the base of the Blue Mountains and established the beginnings of the present day community of Monticello. When these early settlers arrived at the base of the Blue Mountains, they were met by the LC and Carlisle cattle companies. These two cattle outfits were composed largely of Texas cowboys and outlaws hiding from their misdeeds.

The grass was so plentiful in the area it is a matter of historical record that each company was running nearly 10,000 (ten Thousand) yearlings east of Monticello and down in the Verdure Creek drainage. At this time grazing was free and unregulated. As a result these grazing companies along with others overgrazed the land in the name of quick profitability for their investors and with little regard for the land which they grazed. The early settlers were anxious to find places not being grazed by these large companies to graze the cattle they had brought with them from Parowan.

In the meantime the federal government was developing policies for grazing public land and in 1934 passed the Taylor Grazing Act. It was signed by President Roosevelt and was intended to "stop injury to the public grazing lands by preventing overgrazing and soil deterioration; to provide for their orderly use, improvement, and development; to stabilize the livestock industry dependent upon the public range." This Act was welcomed by the livestock men here in San Juan County because it brought stability to the settlers who depended on grazing the public land for their livelihood.

On July 16, 1946, the grazing service and the general land office merged to form the Bureau of Land Management (BLM). The BLM was in charge of the grazing permits that exist even today. These grazing permits have great value to the decedents of their ancestral families who obtained the rights to graze over 150 (one hundred fifty) years ago. Many of the original grazing permits are still part of the family heritage that exists today.

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I could give you many examples of families who have obtained grazing permits from their settler ancestors. I just want to point out that these grazing permits are part of our heritage and obviously have great value to San Juan County with families continually participating in grazing throughout each generation.

Agriculture is one of the most important industries in this county. In fact it ranks in the top two for economic importance in the county. When you are raised in a family that depends on cattle grazing it becomes part of your sole and fiber. You live and breathe the cattle business. You raise you children to love the land and take care of it so it will take care of you.

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I am not sure what a new Monument in San Juan County would do to livestock grazers, but I can tell you what has happened in Garfield County, Utah after the designation of the Grand Staircase Escalante monument.

- 106,000 AUM's were permitted at the time of the Grand Staircase Escalante National Monument (GSENM) creation. Approximately 40,000 (forty thousand) were actually used in 2015 (a 60% (sixty) cut)
- Seedlings and vegetation treatments have not been maintained due to restrictive regulations.
- Prohibition against non-native seeds has reduced range land health
- Maintenance and improvement of water developments has largely been eliminated.
- Monument designation has attracted visitors creating conflicts with pre-existing livestock operations.
- Monument designation has clos4ed roads and reduced access to range improvements and allotments.
- Land use restrictions and zoning regulations have complicated feeding, watering, herding, and managing livestock operations.
- Monuments always result in reduction of AUM's

Senator LEE. Thank you very much, Commissioner. It is great to hear from you, and I appreciate your insights.

Our next witness is Mr. Chester Johnson. We owe Mr. Johnson a great debt of gratitude for driving up from Aneth today. I know he is busy caring for his 92-year-old mother, so he has a lot on his hands.

Chester was born in this county, and he has lived almost his entire life here in San Juan County. He retired just a few years ago in 2010, although he doesn't look old enough to be retired, after a long career as a social worker. A career in which he was able to use his Bachelor's Degree and his Master's Degree that he earned from the University of New Mexico and from New Mexico Highland University, respectively, to help the Navajo people in his career in social work.

Mr. Johnson? [Applause.]

STATEMENT OF CHESTER JOHNSON, ANETH CHAPTER, NAVAJO NATION

Mr. JOHNSON. Thank you. Thank you, Senator.

Good afternoon, everybody. Thank you for coming out.

My name is Chester Johnson. I am a direct descendent from Kayellii, who was a Navajo warrior that had traveled in the Bears Ears region for many years. He believes in freedom and protection of land and independence. These are some things we carry on within our family, and many are living in the Aneth area are descended from this Kayellii warrior.

Today I am here to give testimony on the sacredness of the Bears Ears region, also I'm supporting the PLI proposal. And I will elaborate on opposing the Bears Ears coalition proposal.

Bears Ears is always sacred land to the Navajo. It's an inspiration to us, it gives us strength as well as a healthy life. It provides good food and good hunting meat for us Native people. Annually we come out and hunt and picked pinons for food.

Bears Ears is also homeland for our ancestors. We go in good mind and good way to walk the land Bears Ears and give us a peaceful and renew our physical being as well as spiritual. This is the way we look at Bears Ears and this is the way our warrior, Kayellii, has courageously fought for his freedom and fought to maintain our land.

When you walk on the land on Bears Ears, it's a beautiful area. It's an inspiration to us and this is where we go for medicine and for prayer.

This is why we want protection for Bears Ears and we—the medicine person that goes out and gets medicine, that's where they go for fresh medicine as well as conducting their ceremony, and we'd like to maintain this openness to our Native people as well as for other people using the land at the current stage.

If President Obama succeeds in making Bears Ears land a national monument, the Utah Navajos will be shut off from traditional practices as well as harvesting medicine and conducting healing ceremonies.

Now I will go on to the supporting PLI proposal. To me, this proposal expresses the needs, crucial needs, of the Navajo people in re-

lation to culture, spiritual belief and economic development that could bring prosperity to Utah Navajo.

Some of the things I will point out in my speech here is number one, the PLI proposal advocates a national monument area designation of Bears Ears and establishes certain region of wilderness area. That proposal is the majority supported by Utah, San Juan County citizens.

This is a comprehensive land proposal put together by the citizens of San Juan County. No one is excluded, and we all encourage people to participate in making this proposal by public meetings throughout the counties. I was part of the group discussion for this proposal from the beginning to the end when it was sent to our commission last year.

Because the Utah Navajo were encouraged and they advocate for this proposal because it respects and values the tie they have with the Bears Ears. It also leaves access to the things that they would need at the Bears Ears region. Also again, it will bring prospect in the economic development through this proposal to reservation.

There is heart and soul that this proposal is co-management which has been some lengthy discussion among the panel up here. And we believe in it, that it can be done. We get most of the county and Navajo included in this believe this is greater protection for our public land in San Juan County.

Another thing that we, many people, in the Aneth region, things that we favor with this proposal because there is a possibility of transferring Federal mineral rights on the McCracken extension of the Navajo reservation to the Utah Navajo Trust Fund.

These are the outstanding reasons why I support the PLI proposal. Also I think I have the right to express my opinions and support for public land, how it should be controlled and managed. Through the PLI proposal, we have the opportunity to establish or to create land management policy as well as decisions that will assure greater protection for public land.

And I mentioned that I oppose the Bears Ears Coalition proposal.

Here are some things that I feel that needs to be shared with the public, the way we see from the Aneth area, Aneth Chapter.

The proposal was written only for a few people. Most of these were people that are from outside San Juan County. We feel that it was written by environmentalists, archeologists, and rock climbers and Indian tribes from New Mexico and Arizona. They lack the knowledge of the Bears Ears. That's how we feel. And here they're put in some position where they can make decision and policy and make a national monument out of Bears Ears land.

Bears Ears Coalition is also proposing/imposing a national monument, closing 9.9 million acres. To us, this is an insane and senseless act. The motive for this type of action is greed, pride and inclination of satisfying specific interest groups. It totally excludes people of San Juan County. [Applause.]

And this proposal does not benefit us.

The proposal also establish—asking for the national monument as well as accessibility for native people to use, obtain and use, natural resources.

As explained, the Antiquities Act probably is not going to allow both ways. This is a tactic that was used with the Utah Navajo just to gather support for their proposal. [Applause.]

And many Navajo are beginning to realize now this is what they're doing, just to gain support for the proposal that they have written. Collaborative management is what they call is going to be established to regulate the national monument that they hope to have established.

I believe this system is not workable and is something that will bring Arizona and New Mexico tribes to manage our public land that is located here in San Juan County. And to me, that will be a lot of disagreement.

How could these tribes manage our land? How would they work with us, with the Navajo as well as other ethnic groups in San Juan County? They have no knowledge of what we need and how we use this land is the way we look at it. [Applause.]

A co-management board, Navajo Nation is mentioned as one of the members to sit at this table to regulate and manage this national monument that they hope to establish.

In the past we realized that Bears Ears region was in the United States Claims Indian Court, and it was pushing this to the level that we can have access back to Bears Ears region through this court. But Navajo tribes step in under Peterson Zah's Administration, early 1980's, when the money was offered to the tribal government, over $30 million, and they accepted that money which means that the Navajo Tribal Nation cannot, we're told they cannot touch the case or matters related to Bears Ears in the future and here they designate the Navajo Nation as one of the board members to regulate this national monument that's going to be established. [Applause.]

And many of us in the Aneth area believe that we have a good chance in some way to reclaim some of this Bears Ears land through this court case. We protested. We said no to the Navajo Nation. Don't take the money. Let's pursue with the case. But it didn't happen.

At that time my father, who is deceased now, was an official and I'd travel with him through his different places. Don't accept the money. We're still pursuing the case, but we lost and it was sad that it has happened.

And I'd just like to share this with the audience. This is how much the people in Aneth are so involved and so tied to Bears Ears land.

And the last one I'd like to share with you about the coalition proposal. It's a sacred document. That's how we look at it. The Aneth people has never read it or nobody has full knowledge of what's in the proposal. [Applause.]

This proposal doesn't mention what's good for Aneth people. They had never contributed to it. This is why I oppose the coalition proposal.

I am in support of Public Land Initiative Proposal. It stands for national conservation area and it stands for the wishes of Utah. It also will bring great protection for public land in San Juan County.

Also, again, that I, we, really feel that on the PLI proposal there's going to be some economic development that Utah Navajo will benefit.

A majority of the Navajo as we go travel into different chapters, they support the PLI Initiative. They don't support the coalition proposal. It's only written by a few people and this is why how we feel about it. It caused a lot of division, their proposal caused a lot of division in the Utah community, even in the family as well as with the friends. This is how much it has caused us pain this way. This is why we oppose it, and I'm one of them that oppose this proposal.

Thank you for the opportunity to—[Applause.]

[The prepared statement of Mr. Johnson follows:]

Written testimony of Chester Johnson, The San Juan County Navajo.

To: The United States Senate Committee of Natural Resources and Energy.
July 27, 2016

Good afternoon Chairman Lee, and honorable members of The Committee on Natural Resources and Energy.

My name is Chester Johnson, resident of San Juan County, Utah, and I am a direct descendent of Kayellii. Kayellii was a brave Navajo warrior who believed in the protection of land, freedom, and independence. He evaded capture by the U.S. soldiers in the early 1860's by taking refuge in the Bears Ears Mountain and Canyons with a band of Navajos. He was a Brother to chief Manaelito, signer of the Navajo 1868 Treaty.

I am here to provide testimony on the sacredness of the Bears Ears region, support the Public Lands Initiative (PLI) proposal, and oppose the Bears Ears inter-tribal coalition proposal.

Bears Ears is a sacred land. In a traditional view, it is a symbol of moral inspiration, of strength, and a sustainer of healthy life. The land provides good plant foods such as wild red berries, pinons, and good fresh meat from wild game, which we annually pick and hunt to nourish our physical health.

The Bears Ears area is a homeland of our ancestors' spirit, healing plants, and worship sights. When we go and walk on Bears Ears mountain with a meditative mind and respect, we feel renewed physically and spiritually. We feel the spirits of our ancestors who walked this land before us. We feel the strengths and freedoms which Kayellii courageously stood and fought for. We feel whole, protected, and enlightened as we slowly gaze at the beautiful, majestic view of Bears Ears mountain, cedar trees, the fresh smell of medicine plant, and wild flowers.

Bears Ears land is like a Navajo traditional medicine bundle. It holds a variety of medicine herbs and they grow abundantly in certain areas. Medicine persons often travel to Bears Ears mountain to get lush medicines for healing ceremonies.

The Bears Ears land also provides a quiet, peaceful place to be in oneness with nature and holy people. Ceremonial prayers are done near or around certain trees, plants, or a special designated shrine where ancestors did their prayers and ceremonies.

If president Obama succeeds in making Bears Ears land a national monument, the Utah Navajos will be shut off from their traditional practices of harvesting herbal medicine and conducting healing ceremonies and prayers.

The Public Lands Initiative (PLI) proposal is an important proposal. The proposal was put together over many years with the involvement of San Juan County citizens including the seven Utah Navajo chapters.

The unique aspect of the PLI proposal is its focus and expression of Utah Navajo's crucial needs in relation to Navajo culture, spiritual belief, and economic development that would bring prosperity to Utah Navajo communities. Some of the specific features, interests, and needs expressed in the PLI proposal are:

1. A national conservation area designation of the Bears Ears region with some establishment of wilderness area. These proposed designations are supported by the majority of San Juan County citizens.
2. A comprehensive land proposal put together by the citizens of San Juan County, Utah. No one is excluded, but rather everyone was encouraged to contribute to the proposal at public meetings throughout the county.
3. Allowing Utah Navajos, constituents, and chapters to participate in the proposed process. Most Navajos support a national conservation area (NCA). NCA values respect their historical ties to the Bears Ears area, access to natural resource sites for performances in ceremonial practices, and the prospect of future economic development to reduce poverty on reservations.
4. Offering ideals of local control, local ownership, and local management of land through establishing a co-management board consisting of representatives of San Juan County ethnic groups. This is the heart and soul of the PLI proposal to which all county residents agree and believe as the greatest protection of public land.
5. Recognizing the critical need of public land revenues for San Juan County schools.
6. Giving a strong prospect of transferring federal mineral rights on the McCracken extension of the Navajo reservation to the Utah Navajo Trust Fund.

These are the outstanding reasons why I support the PLI proposal. Also, as a San Juan county resident, I have the right to voice my opinions and support as to how our public land should be controlled and managed. With the PLI proposal, we will have the opportunity to set land management policy and decisions that will assure great protection for our land.

I oppose the Bears Ears inter-tribal coalition proposal. The proposal does not truly represent the Utah Navajos. This forty page document will not benefit the citizens of San Juan County.

I disagree with lots of what is written in the proposal, but, I will bring out a few that do not reflect the wishes and desire of the Utah Navajos:

1. The proposal was written by people who are not residents of San Juan County. These people are environmentalists, archeologists, rock climbers, and Indian tribes of New Mexico, Arizona, and a few continually dissatisfied Navajo tribal officials. They lack a background of specific knowledge of the bears ears region that is essential in making humane, reasonable land designation decisions.
2. The coalition proposal is unilaterally imposing a national monument and closing off 1.9 million acres of public land. This is an insane and senseless act. The motive for this type of action is greed, pride, and inclination of satisfying specific

interested groups. It totally excluded the people of San Juan County, therefore, it does not benefit us.

3. The coalition proposal is asking for establishing a national monument with a presidential provision for allowance of accessibility for native people to obtain and use natural resources. The Antiquities Act of 1906, does not make such allowance. This is a tactic used to generate support for the proposal. Also, proponents are telling Utah Navajos that they will move back to the Bear Ears region and the land will be given back to them. However, many Navajos are beginning to realize that it is a total lie.
4. The proposal advocates a tribal collaborative management with three (3) federal agencies of a bears ears national monument. This type of management system is unworkable, and very likely will create a chaotic situation. The system will sect people with no managerial ability, disagreements, and protocol that will incapacitate decision-making all way up to the office of Secretary of Interior. Also, there is no guarantee if county residents wish and benefits will be a priority with the selected five tribes.
5. The coalition proposal designated Navajo Nation as a collaborative management board member. This is a serious problem and a great dilemma for the Navajo nation. In early 1980's during Peterson Zah's administration, the tribe relinquished a bears ears claim case in the US Indian claim court. In doing so, the tribe accepted over thirty million dollars for relinquishing the claim case, and restricted itself from being involved in any claim or matter relating to the Bear Ears region. The current Navajo Nation president ignored this decision made by the Indian claim court. I would like to add too, the Aneth people and chapter protested the tribal government's acceptance of the money. The Aneth people had pursued this claim case since the early 1950's, and they were near winning the case when the Navajo nation relinquished the case for the money.
6. The coalition proposal is a secret document. My chapter, Aneth, and other Utah Navajo chapters never read or heard the full content of the proposal before it was released. As such, Utah government Navajos never contributed to this document.

Conclusion

I am a proponent of the Public Land Initiative proposal. The proposal stands for a national conservation area and it contains the wishes of Utah Navajos. The proposal assures great protection of our public land while balancing economic development in a way that will bring prosperity to Utah Navajo communities. It also ensures protection of resources, native people, sacred sights, and remains. A majority of Utah Navajos support the PLI proposal. I oppose the Bears Ears inter-tribal coalition proposal. The proposal is only written for the few, mostly environmentalists, archeologists, and out of state native tribes. This document also provoked serious division among Utah Navajo communities, families, and friends. It offers no benefit to San Juan County people.

I appreciate this opportunity to provide testimony to the Senate Committee on Natural Resources and Energy.

Thank you.

Senator LEE. Thank you. Thank you, Mr. Johnson, and I am grateful to have such an enthusiastic audience with us today as well. [Laughter.]

Senator LEE. Our next and final witness today is Mr. Lewis Singer. [Applause.]

Senator LEE. Mr. Singer is a Navajo Indian from Caliente, Arizona. He graduated with three degrees from Brigham Young University in education. He has been an educator, serving as a school administrator on and off the reservation for the San Juan School District for over 30 years. Upon his retirement he worked for Utah State University Eastern at the Blanding Campus for five years.

Lewis and his wife, Donna, have seven children, 21 grandchildren and get this, were foster parents to 57 Navajo boys. That is a lot of boys. [Applause.]

Mr. Singer's wife, Donna, who was instrumental in helping to establish the Utah Navajo Health System in San Juan County, the Utah Navajo Health System now has four clinics and even helped build the Blue Mountain Hospital right here in Blanding.

Mr. Singer? [Applause.]

STATEMENT OF LEWIS SINGER, BLUE MOUNTAIN DINÉ, NAVAJO NATION

Mr. SINGER. Thank you, Senator Lee.

I wanted to thank you and the Senate Energy and Natural Resource Committee for being here today. As you can see we have a lot of people that are very concerned about this issue here today. And this hearing is vital for our, you know, what happens in the future to our land here, all the Native Americans and the Indian people and the Bilagáana people, the white people who reside in this community.

We're having this meeting in their behalf and I'm grateful that those, that Governor Herbert, our commissioner, commissioners, are here today. I know that Rebecca is in California on another assignment or she would be here. And Bob Bishop, we appreciate your attendance here today.

And so, the Bears Ears Coalition has recommended that 1.9 million acres of San Juan County land be designated for a national monument. On the land that is being proposed for a monument the Native people, the Indian people and the local people have been able to gather to hunt, to gather wood and traditional medicinal herbs and hold traditional ceremonies. National monument status would restrict access to the land, require payment of entrance fees and may restrict or prohibit traditional activities such as hunting, gathering wood, picking pine nuts, as Chester just mentioned, acquiring medicinal herbs and performing ceremonies on the land.

Just this past year I've had the opportunity of going to Bullfrog-Halls Crossing and other monuments, and I've had to pay a fee every time I've entered those monuments. And I think you'll find the same restrictions at other monuments as well.

Secret meetings have been held by supporters of a national monument to encourage Native Americans to believe that a monument will help them reclaim land that they lost. Our elderly people are really enticed with the idea that they can reclaim their land which we think will never happen. And so, opponents of the monu-

ment have been denied access to these meetings because we're not invited or admitted.

And also, brochures have been developed and passed out among the Native people in an effort to get their support for a monument. These brochures declare that the Native people will still be allowed access to the land and conduct their traditional activities but the restrictions that will be enforced once the land becomes a national monument will not allow for these activities.

As you see some of our Ute people that performed at the beginning of this meeting, they came to a meeting that was being held here a week ago and they were denied access by their leader to the meeting that was being held in White Mesa because they were against the monument.

The Navajo people can tell you that this is the truth based on their experiences with the Wupatki and Canyon de Chelly National Monuments in Arizona.

In Wupatki, generations of Navajo sheep herding has almost disappeared due to the National Park Service's limiting access to the land that Navajo families have managed since the 1870's. Now all that remains of a once thriving Navajo community is a Navajo elder woman whose home will be claimed by the National Park Service when she dies.

In Canyon de Chelly, the Federal Government has removed more than 300 sacred tribal relics and human remains from Navajo property. The Navajo Nation, I hope, would never have had agreed to this monument designation if they had known what was going to happen beforehand.

The Navajo people have given up enough of their tribal lands for national monuments as well as our Anglo people will be giving up land. 1.9 million acres is many times more land than many other national monuments. How can we, as a Native people, as people of this county, trust the United States Government when they provide reservations, for example, and then come back and claim them as national monuments?

We ask the Secretary of the Interior to extend consideration of this action and complete more review of the negative consequences that a national monument would put on the local people and especially the Native people, who have fought for America, even after the degradation that they experienced at the hands of the Federal Government.

My father and uncle were both code talkers. My nephew fought in Afghanistan and Iraq, along with many other Native soldiers for the American people. My brother served in the military. Taking away access to land which they and their families use in honor and which was established on tribal lands such as Canyon de Chelly and Wupatki by the Federal Government doesn't seem like very much gratitude for their sacrifices and service.

I thank you for your time. [Applause.]

[The prepared statement of Mr. Singer follows:]

Lewis J. Singer
Native Navajo/Retired Educator
No Bears Ears Monument Organization

No Bears Ears Monument

Thank you Senator Lee and the Senate Energy and Natural Resources Committee for holding this hearing on an issue that is very important to the Blue Mountain Dinè and the people of San Juan County.

The Bears Ears Coalition has recommended that 1.9 million acres of San Juan County land be designated as a national monument. On the land that is being proposed for a monument, the Native people and the local people have been able to hunt, gather wood and traditional medicine herbs, and hold traditional ceremonies. National monument status will restrict access to the land, require payment of entrance fees, and may restrict or prohibit traditional activities such as hunting, gathering wood, picking pine nuts, acquiring medicinal herbs, and performing ceremonies on the land.

Secret meetings have been held by supporters of a national monument to encourage Native Americans to believe that a monument will help them reclaim land that they lost. Opponents of the monument have been denied access to these meetings because they were not invited or admitted. Similarly, brochures have been developed and passed out among the Native people in an effort to get their support for a monument. These brochures declare that the Native people will still be allowed to access the land and conduct their traditional activities. But the restrictions that will be enforced once the land becomes a national monument will not allow for these activities.

The Navajo can tell you that this is the truth based on their experiences with the Wupatki and Canyon de Chelly National Monuments in Arizona. In Wupatki, generations of Navajo sheepherding has almost completely disappeared due to the National Park Service limiting access to lands that Navajo families had managed since the 1870s. Now all that remains of a once thriving Navajo community is a Navajo elder woman whose home will be claimed by the National Park Service when she dies.

In Canyon de Chelly, the federal government has removed more than 300 sacred tribal relics and human remains from Navajo property. Navajo Nation never would have agreed to a monument designation if they had known that the park service would remove these sacred objects.

The Navajo people have given up enough of their tribal lands for National Monuments. 1.9 million acres is many times more land than many other National Monuments. How can we as a Native people trust the United States Government when they provide reservations and then come back and claim them as National Monuments?

Lewis J. Singer
Native Navajo/Retired Educator
No Bears Ears Monument Organization

We ask the Secretary of the Interior to extend consideration of this action and complete more review of the negative consequences that a national monument will put upon the local people and especially the Native Americans who have fought for America even after the degradation that they have experienced at the hands of the federal government. My father and uncle were code talkers. My nephew fought in Afghanistan and Iraq along with many other Navajo soldiers for the American people. My brothers served in the military. Taking away access to land which they and their families use and honor and which was established as tribal lands such as Canyon de Chelly and Wupatki by the federal government doesn't seem like gratitude for their sacrifices and services.

Senator LEE. Thank you so much for your prepared remarks which were very insightful.

I am now going to ask a few questions of our witnesses. After we are finished with that portion of it, we will gavel out from the hearing, then we will begin the town hall component of this meeting where we will have an opportunity to hear from members of the public.

I would like to start with Mr. Singer and Mr. Johnson. I just want to ask you, generally, to describe to us very briefly what kind of impact has the debate surrounding the proposed Bears Ears National Monument had on your communities?

Mr. SINGER. Well, just to give you an example. Just this past year I've had the opportunity of delivering firewood to an elderly grandmother down at Monument Valley twice because she was out of firewood, and that's what she depended on for heat and for cooking. And so, that's one example.

And then later on when we had a big snowstorm here in this area, one of the leaders called me from down in Monument Valley Chapter and asked if we could bring firewood down to the Chapter for people that were relying on firewood to heat their homes and to cook and that kind of thing.

And so, I went to one of our church leaders here and in our community here and he was very gracious in allowing us to load a pickup truck and also a trailer load full of firewood so that those people could sustain themselves and relying on the firewood that they depend on in this area.

Senator LEE. Mr. Johnson, anything to add there?

Mr. JOHNSON. Yes, I'd like to add that we still depend on Bears Ears region for hunting. I think this is going to be limited. This is going to be eradicated to the limit that we're not going to be allowed. And this is something that we just don't just hunt for meat. We use the buckskin for ceremony as well. To some extent, this is going to be very limited.

Also, we came down for enjoyment and for spiritual practices when we—when we diminish also that we were not allowed to come on to pick pinions which Bears Ears region is grow a lot of good pinions and red berries which the Navajo still use to come down also.

And for those people that are basket makers, I'm sure they go up there for good willow, cut them and make a basket in that way that they sell it for economic benefit and economy wise and things like that. I think it's going to be very limited. It will eliminate to some extent.

Senator LEE. Thank you. Thank you.

Governor Herbert, as Governor of Utah you have occasion to interact regularly with officials from the Federal Government, including officials from the Executive Branch of Government. Tell me how you think the designation of a national monument at Bears Ears, how would that impact the interactions you have, the interaction between the Governor's Office and the White House or more broadly, the interaction between the State of Utah, the government of which you oversee as its Chief Executor, and the Federal Government, generally?

Governor HERBERT. Well, I understand the issue is one that's emotional and for the people particularly close to the area in question it becomes very personal. And we need to look no farther than what happened 20 years ago when we had the Grand Staircase Escalante monument. And we still have the scars today, 20 years later.

Senator LEE. Tell me what you mean by that, the scars?

Governor HERBERT. People don't trust the Federal Government.

Again, that process, I mean, talk about a bad process. Our congressional delegation, every one of them, was lied to. Our Governor found out about the designation of the monument by reading it in the Washington Times.

The President went and stood across in a neighboring state to make the declaration. He didn't even come to Utah. Had no public input. So that was probably the worst of the worst. I would shudder to think if that was the same thing that was to happen here today. So we still have the scars. We still have the anxiety. We have the animus, the anger.

And a monument here will be divisive. I've said this. It's not a matter of should we protect the Bears Ears area. Everybody has, I think, consensus on that. But the process of how we do it makes a big difference in relationships between the State of Utah and all of Utah's three million people and the Federal Government if we feel like they did it to us again as opposed to doing it with us.

The PLI is with us. It's consensus. It's the appropriate way to do it where we can all feel a part of the outcome and buy into it. The designation of the monument is, kind of, somebody, kind of, sticking it to us for whatever reason. Some of it, as the Congressman said, feels like it's just political.

Senator LEE. So, in other words, if you were advising—Yes. [Applause.]

If you were advising the President of the United States and he were asking your advice, you might be inclined to tell him, look, you guys own two-thirds of our state. That is a lot of our state to own. One would think that if you want to own that much of a state, you might want to have a good relationship with its residents and a good relationship with its Governor and its elected officials throughout the state. That certainly should be taken into account heavily when deciding to take a step like this.

Governor HERBERT. Absolutely. [Applause.]

If it's really about protecting and preserving areas of critical need, I get it. But the PLI does much more than that. It protects even beyond Bears Ears and preserves and protects there.

So, again, if it's really about what we can do to manage correctly the public lands, the PLI is a much better vehicle to get that done which brings us together rather than divides us a national monument would do.

Senator LEE. Many of the promises the Obama Administration has made to the Bears Ears Coalition may well be sincere but history, in my opinion, suggests that many of those promises are likely to prove hollow just based on our track record, based on the track record of the Federal Government, based on the track record of Federal land managers and their interactions with the people of Utah.

Should President Obama decide to create a national monument, to put out a proclamation out of the Antiquities Act designating the Bears Ears as a national monument, current law, in my opinion, provides no certainty for Native Americans to continue practices that are essential to their way of life, that are important to them for spiritual and historical and cultural reasons.

To remember from today's hearing, only one thing, forget everything else, just remember this, there is no law, there is no judicial precedent that guarantees that Native Americans will have continued access to or use of their sacred sites on this land, if that land is, in fact, designated as a national monument. There is nothing in existing law that provides that guarantee.

Now——[Applause.]

Now, to be clear some are going to respond to this, and they are going to point out that prior national monument proclamations have cited a handful of statutes that sound like they guarantee some of these protections. But we discovered that upon further examination they've proven to be completely toothless.

President Obama has cited Executive Order Number 13007 which tells land managers to accommodate access to and ceremonial use of Native American sacred sites. But these supposed protections, supposed protections that are often invoked by people who are wanting to promote the idea of a national monument, quickly deteriorate. This supposed accommodation is qualified by language limiting Native Americans access to these lands. I quote, Representative Bishop referred to this earlier, "To the extent practicable, permitted by law and not clearly inconsistent with the agency." You do not have to be a lawyer to look at that and realize that that is a loophole that is so wide you could drive a 747 and an airbus 8380 through it side-by-side. [Applause.]

Moreover, Executive Order 13007 does not provide a cause of action. What does that mean? It means if they violate it there is no remedy in court. You cannot just bring them to court on that. And so, it's toothless. It draws near to this principle with its words, but its heart is very far from protecting religious freedom.

Past presidents have also cited the American Indian Freedom of Religion Act of 1978. That too, provides no cause of action for potential religious freedom violations by Federal agencies and does not prohibit Federal agencies from adopting policies that would inflict serious harm on sacred sites. I find this a little alarming.

Congressman Bishop, tell me this. In what ways does the Public Lands Initiative provide more certainty? In what ways would it provide more protection for religious freedom and for access by Native Americans to these sacred sites than they would have access to in the event, in the unfortunate event, of Presidential Proclamation designating a national monument in the Bears Ears?

Mr. BISHOP. Well, the language appeal, I tried to take away every kind of loose language that could be interpreted differently. So what we are trying to do is actually write down the specifics of what will and will not take place. So this idea of, you know, to the extent practical will not be found in there. But the bottom line is still the difference, as you already mentioned.

We have the ability in Congress to establish statute, though if it's not in existence right now, we can change it to make it happen.

A Presidential Proclamation, as nice as they are, they still can't do that, even though he can say almost anything he wants to, it is not the same thing as changing the law.

That's what we're trying to do with PLI. We are trying to change the law so that recreation, so that economic activities, grazing, traditional activities, they can be maintained.

And if we're talking about co-active or cooperative management, I like that concept. I think it has a great deal of opportunity.

The President in a proclamation could not make what they have said they want to do. They cannot make it happen. But we could, and I'm willing to do that. I'm going to make sure that kind of cooperation in the management could take place, but it has to be done in statute otherwise there is no guarantee.

Senator LEE. Thank you. [Applause.]

Commissioner Adams, are you aware that past national monument designations on BLM land have prohibited grazing entirely?

Mr. ADAMS. Yes, I am. That's why I'm so passionate about the fact that monuments do away with AUMs.

Senator LEE. Right.

What would happen if grazing were strictly prohibited in San Juan County under a designation? I assume that would be bad.

Mr. ADAMS. I think one of my compatriots out there said war. [Laughter.] [Applause.]

It would virtually devastate this county. Agriculture is probably number two in the county as far as importance for people to make a living.

You take this national monument, 1.9 million acres. We have five million acres in this county, one of the biggest counties in the United States. It's bigger than some states but only nine percent is private, or eight percent is private property.

So we have to find a way to make a living on public land. If you eliminate grazing in this county you're going to eliminate the livelihood of hundreds of families. It will devastate this county, and it will devastate the livelihood of farmers and ranchers in this county from now on. It is the most divisive proposal that has ever faced this county to my knowledge is this monument idea. [Applause.]

Senator LEE. Congressman Bishop, talk to me about co-management. Some people who have been advocates for the idea of a Bears Ears National Monument have suggested it is all going to be okay because we will have co-management.

First of all, tell me, is there any way co-management can work under existing law? Secondly, even if it could, without adequate constraints built into the law, are there additional concerns that could flow from that unless the terms of the co-management are clearly spelled out in law?

Mr. BISHOP. That's an easy one.

No, there's no way under existing law that you can have the co-management that the Administration is talking about.

Senator LEE. So, just to be clear. If the President issues a proclamation under the Antiquities Act saying I, President Barack Obama, hereby designate the Bears Ears as a national monument at two million acres and it's bigger than Yosemite National Park and I don't care what the people of San Juan County think or whatever he says in there. If he then says, and I hereby put in mo-

tion a co-management structure. Those are empty words. Is that right?

Mr. BISHOP. Yes, sincerity may be actually there, but if he were to actually—and they were to try to implement that, anybody could sue and it would be kicked out. I mean, they would lose because it violates the law as it's presently constituted. But that's what I said is the only way you get around that is if you actually pass statute that changes the law.

Senator LEE. Thank you.

This has been an extraordinarily useful exercise.

In a moment we are going to gavel out of this hearing and we will move on to the next phase of our meeting, the town hall portion of the meeting where we will have the opportunity to hear from those of you who have come to talk to us and about your concerns and about your thoughts on this concept.

I want to thank you once again for coming. I also want to thank each of our witnesses for coming, who provided valuable testimony.

It is very important that we, as citizens of a state where most of the land is owned by the Federal Government, it is very important that we remember that we have certain rights as U.S. citizens and that those rights need to be protected and they won't be protected unless we voice our concerns when the government is going to do something. We will always endeavor as citizens to voice them in a diplomatic way, in a civil way, but in a way that makes no mistake about the fact that our opinions matter and that when actions are taken that affect us locally, that affect us individually, that affect us personally, we are not going to simply accept whatever decision happens to be made from Washington, DC without expressing our opinions because our opinions matter.

I am reminded of a scene near the end of the Constitutional Convention of 1787 when a delegate from Massachusetts named Elbridge Gerry arose on September 3rd, 1787 to address his fellow delegates to express concerns about the proposed Constitution which was still undergoing some revisions. He explained that he was worried about provisions in the proposed Constitution that might give Congress too much power on a number of points, one of them involving the ownership of public land.

And he uttered words to the effect of this, that if at the end of the day Congress ends up acquiring too much land within particular sovereign states, the people of those states might be compelled to an undue humble obedience to the Federal Government.

I wonder sometimes whether when Elbridge Gerry was speaking whether he had us in mind. I wonder whether he saw San Juan County in particular. And I wonder whether we need to revisit, as a people, not just as residents of this part of the state, not just as residents of Utah, but as an American people, why it is that it makes sense.

In what universe is it fair for the Federal Government to own this much land in our state, for the Federal Government to render our state so subservient on so many levels for the will and whim of bureaucratic administrators who are far from us? [Applause.]

The information we have obtained today has proven incredibly helpful. The record will remain open for a period of two weeks after

this meeting has concluded and during that time witnesses are free to submit additional information.

We will now gavel out and reconvene in just a couple of minutes in order to take your questions. This hearing is adjourned. Thank you.

[Whereupon, at 4:30 p.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

BEARS EARS INTER-TRIBAL COALITION

A Partnership of the Hopi, Navajo, Uintah & Ouray Ute, Ute Mountain Ute, and Zuni Governments

Chris Prandoni
Office of Senator Mike Lee
Washington, DC, 20510

Dear Mr. Prandoni;

Thank you very much for your kind invitation to appear at your field hearing on the proposed Bears Ears National Monument in Blanding, Utah on July 27. Unfortunately, neither of us will be able to attend on that day. We are attaching our formal proposal to President Obama concerning the proclamation of a Bears Ears National Monument, which details our vision for the Bears Ears cultural landscape. We request that you include our proposal in the record of this hearing and hope that our views will be of use to you.

Thank you for your courtesy,

Alfred Lomahquahu
Hopi Vice-Chairman
Co-Chair. Bears Ears
Inter-tribal Coalition

Regina Lopez-Whiteskunk
Ute Mountain Ute Tribe Council Member
Co-Chair. Bears Ears
Inter-tribal Coalition

PROPOSAL TO PRESIDENT BARACK OBAMA FOR THE CREATION OF BEARS EARS NATIONAL MONUMENT

Submitted by

THE BEARS EARS INTER-TRIBAL COALITION
A partnership of the Hopi, Navajo, Uintah and Ouray Ute, Ute Mountain Ute, and Zuni Governments

October 15, 2015

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Exhibit One: A Timeline: The Relationship of the Public Land Initiative with the Tribes and Their Members

Exhibit Two: Resolution No. EC-15-002: National Congress of American Indians Supporting the Presidential Proclamation of Bears Ears National Monument &Collaborative Management between Tribal Nations and the Federal Agencies.

I. INTRODUCTION

This is a Tribal proposal for a Presidential proclamation under the Antiquities Act of 1906 to protect historical and scientific objects in an area of 1.9 million acres of ancestral land on the Colorado Plateau. We propose that the most appropriate and effective management regime is Collaborative Management by the Tribes and Federal agencies.

This proposal has been a long time in the making. For six years, grassroots people and Tribal leaders have worked intensively to get to this point. The true origins, however, go back much farther. The need for protecting the Bears Ears landscape has been broad and heartfelt for well over a century. The rampant looting and destruction of the villages, structures, rock markings, and gravesites within the Bears Ears landscape saddened and sickened our ancestors, and that sense of loss and outrage continues today. The depth of our spiritual connection to these places is not widely understood, but it is true that these desecrations to our homeland, structures, implements, and gravesites—insults to the dignity of our societies and Traditional Knowledge as well-wound us physically. By visiting Bears Ears, giving our prayers, and conducting our ceremonies, we heal our bodies and help heal the land itself.

For long generations, we did not know how to petition the government for redress of the wrongs committed against the land, our societies, our traditions, and our health. But now we do know how to bring our aspirations forward and take this opportunity to do so. President Obama, Secretary Jewell, Secretary Vilsack, Director Kornze, Assistant Secretary Washburn, Director Jarvis, Deputy under Secretary Blazer, and many other officials have been very responsive, and we deeply appreciate that.

This proposal is unique and wholly unprecedented. While historians, conservationists, scientists, archaeologists, and others have sponsored many requests for protection under the

Antiquities Act, Tribes have never before petitioned for a presidentially-declared national monument, much less one of the size and scope we propose here. As a result, the differences between earlier monuments and this one are many and deep. The government is acting as trustee for these five Tribes. The Tribes are sovereign governments and possess solid land management capabilities. This petition can be addressed through the Federal-Tribal government-to-government relationship, so that deliberation over the merits of this proposal can take place in open, collegial discussions between the Tribes and Federal officials. And this proposal touches the heart of the Antiquities Act of 1906, designed to honor and protect the physical evidence of our ancestors' long possession.

Importantly, this proposal also requests that the President proclaim the Bears Ears National Monument to honor the worldviews of our ancestors, and Tribes today, and their relationships with this landscape. It is not a matter of romanticism or political correctness. Native people always have, and do now, conceive of and relate to the natural world in a different way than does the larger society. This subject, as personified and enriched by the Native experience at Bears Ears, has every opportunity to lead to excellent public programs and outreach as well as outstanding opportunities for scientific, historical, and philosophical research by both Native and non-Native scholars and experts.

Significant Tribal involvement in the workings of this monument, then, can produce many benefits to the public at large. For example, as shown by numerous testimonials from grassroots Native people that will accompany this proposal, large numbers of contemporary Indian people visit Bears Ears regularly to gather medicines, herbs, and vegetative materials. These ancient cultural activities are based on elaborate information held by Native Americans, and are now commonly referred to as Traditional Knowledge, a subject that is drawing

considerable interest among scientists, land managers, and the general public. "My grandmother told me the story about how my grandfather took them hunting for deer around Bears Ears. My family members still hunt the area near Bears Ears and I was taught the different medicinal plants; this was my classroom, I am now a Navajo traditional herbalist."(Ruby Ross, Navajo)

The depth, richness, and variety of the Native connection to Bears Ears, coupled with the on-the-ground practices developed in joint Federal-Tribal land management at this national monument, can lead to the creation of a world-class institute on systems of land management that accounts for both western science and Traditional Knowledge. This center, as discussed below, would be located at the proposed monument.

Similarly, honoring the Native worldview through this monument will cause citizens to understand and assess the worth of traditional Native views of humans and the land. A byword among Tribal natural resource members is that "We don't manage land. The land manages us." And Native people, too, feel and experience the weight of history in unique ways. "We can still hear the songs and prayers of our ancestors on every mesa and in every canyon."(Malcolm Lehi, Ute Mountain Ute)

In long, focused, and well-attended deliberations over this proposal, we have concluded that this new monument must be managed under a sensible, entirely workable regime of true Federal-Tribal Collaborative Management. We know that this has never been done before. But most great breakthroughs in public policy have no direct precedent. We want to work with you on this. We have reflected long and hard to come up with the right words to install Collaborative Management in this particular place and circumstance, and believe in our suggested approach, but we welcome your thoughts on how to improve our formulation. Like you, we want to make the Bears Ears National Monument the shining example of the trust, the government-to-

government relationship, and innovative, cutting-edge land management. But whatever the specific words might be, for the Bears Ears National Monument to be all it can be, the Tribes must be full partners with the United States in charting the vision for the monument and implementing that vision.

In this proposal, developed by five unified Tribes, we will put forth a comprehensive set of recommendations on the many matters to be considered in the creation of the Bears Ears National Monument. We look forward to our meetings with you as we work together to address the issues raised in the following pages. In addition, we have provided Congressmen Bishop and Chaffetz with copies of this proposal at the same time we have submitted the proposal to you. We remain committed to exploring with them how this proposal can be accomplished through legislation. We welcome conversations with them on how to reach that result.

II. THE BEARS EARS LANDSCAPE

The wonder is that Bears Ears has not already received some sort of special Federal protection as a park, monument, or wilderness. The area is located in the magnificent Colorado Plateau that is world famous for its parks and monuments—Arches, Canyonlands, Zion, Mesa Verde, and many others—and the quality of the Bears Ears landscape is equal to them all. It is perhaps the most ecologically intact region in the Lower 48 states, making it difficult for most Americans to reach and know. Speaking of the wild west side of the Bears Ears, Wallace Stegner wrote that "to start a trip at Mexican Hat, Utah, is to start off into empty space from the end of the world." Wallace Stegner, *The Sound of Mountain Water*, 102 (1969). He added that there is good reason to go there, for a trip into the redrock expanses of Bears Ears country will "fill up the eye and overflow the soul." *Id.* at 18.

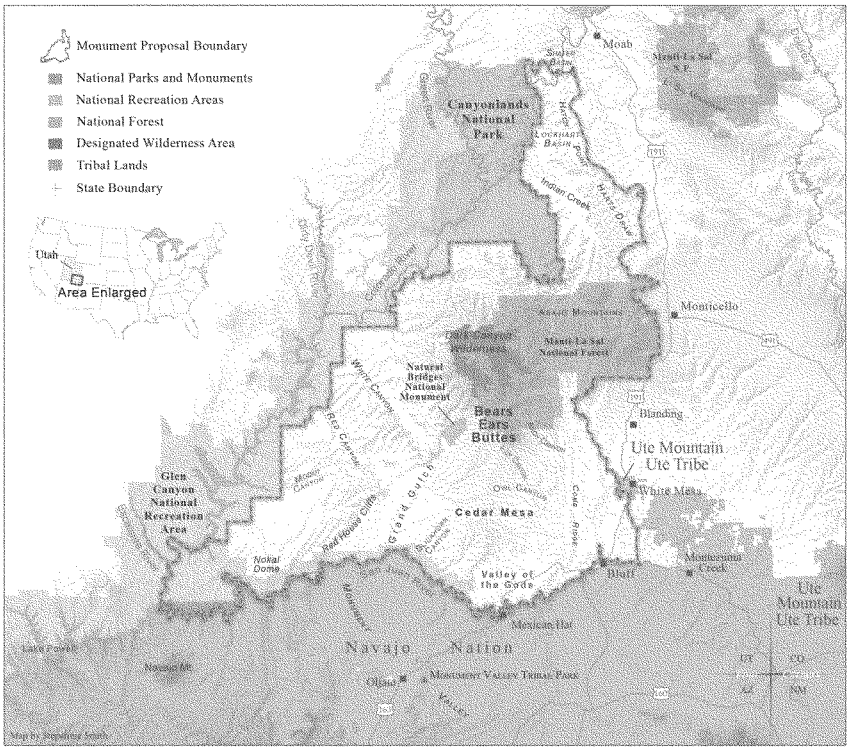
Now the time has come to protect Bears Ears. Our discussion here is not intended to catalogue all the many ways that this area holds significant geological, paleontological,

archaeological, historical, cultural, and biological "objects" within the meaning of the Antiquities Act; that more detailed statement is properly developed by the Administration's drafters of the presidential proclamation. Instead, we offer this section to highlight some of the main considerations that justify monument status for Bears Ears. This includes the inspiring natural features of the area and, critically, the multifaceted relationship between Native American people and this landscape that has developed over the course of eons.

A. The Physical Landscape

Bears Ears is bounded on the west by the Colorado River and by the San Juan River and, to the South, by the Navajo Reservation. On the east and north, the boundary is marked by low bluffs and high mesas and plateaus from White Mesa up to the Colorado River near Moab, Utah. The Bears Ears proposal is mostly made up of BLM lands, but it meshes with National Park and National Forest lands. Long stretches of the monument's south border, and part of the west as well, are contiguous with or overlie the Glen Canyon National Recreation Area. The southwest corner of the monument, of ceremonial importance to Tribes, includes National Recreation Area land. Canyonlands National Park runs adjacent to the proposed monument for a lengthy portion of Bears Ears' western boundary. Natural Bridges National Monument is located within the proposed monument. The Abajo Mountains, Dark Canyon, Elk Ridge, and surrounding terrain lie within the Manti-La Sal National Forest.

PROPOSED BEARS EARS NATIONAL MONUMENT



This vast, mountain-mesa-and-canyon country offers carved, rugged, soaring beauty. The most exposed part of 800-foot-high Comb Ridge, with its many sweeping vistas and hidden side-canyons, runs south to north through the area for 40 miles. On the east, Dark Canyon (an official wilderness area) and the Abajo Mountains, which climb above 11,000 feet, are both within the National Forest system.

In the northeast, the proposed monument abuts the entire east and south sides of Canyonlands National Park. The Colorado River cuts a gorge through a formation named the Anticline between Lockhart Basin and Shafer Basin, both once considered for inclusion in Canyonlands. Verdant Indian Creek, a perennial stream lined with cottonwood trees, with headwaters in the peaks of the Abajo Mountains, runs past Newspaper Rock, one of the largest and most varied rock art panels in the Southwest. Rock climbers cherish some of the formations along Indian Creek. Much of this region is bracingly wild. The lofty mesas of Hatch Point and Harts Point are home to mountain lions and antelope. Cottonwood Creek flows past Bridger Jack Mesa, a place so inaccessible that it has never been grazed by livestock. Protecting this part of Bears Ears is lastingly valuable in itself, but it also provides extraordinary benefits to Canyonlands National Park: Because of the way that Bears Ears would wrap around all of the east and west borders of Canyonlands, it will provide a sturdy buffer zone that has been needed ever since Canyonlands was founded in 1964.

The little-visited western reaches of Bears Ears allow citizens to adventure into some of the nation's most untouched places: White Canyon, Red Canyon, Red House Cliffs, Nokai Dome, and many others. In 1880, intrepid Mormon pioneers came through this rugged, slickrock country on the historic Hole-in-the-Rock Trail in their horse-drawn wagons and then travelled

down Cedar Mesa to reach Bluff, where they established the first Mormon settlement in the region.

In the central part of the proposed monument, the stately, arresting natural formation named Bears Ears rises high above the piñon-juniper forests of broad and long Cedar Mesa, a grand plateau that offers long vistas, most notably from storied Muley Point. Cedar Mesa also is the origin of no fewer than twelve exquisite canyons that drape off the sides of this mesa, including Arch, Slickhorn, Fish, Owl, and Grand Gulch. On Cedar Mesa and in its canyons and throughout Bears Ears, visitors should be on alert for an arch, natural bridge, unexpected side-canyon, bighorn sheep, black bear, or eagle or hawk on the wing.

B. <u>The Long Native American Presence</u>

Wondrous though the natural formations are, the most profound aspect of Bears Ears is the Native presence that has blended into every cliff and corner. This spirit is the beating heart of Bears Ears.

The creation stories of our individual Tribes--the Hopi, Navajo, Uintah & Ouray Ute, Ute Mountain Ute, and Zuni--tell us that our Tribes came to the Bears Ears country at different times. Some of us have been there forever, and some of us came later, during our travels. All of us know, however, that we have inhabited this Earth, not just for thousands of years, but since time immemorial, since time began. We know that some respected scholars believe that we came more recently. Which view is correct? Perhaps both are.

Our ancestors variously inhabited, crossed, hunted, gathered, prayed, and built civilizations on these lands. Their presence is manifested in migration routes, ancient roads, great houses, villages, granaries, hogans, wikiups, sweat lodges, corrals, petroglyphs and pictographs, tipi rings, and shade houses. Hopi and Zuni people moved from foraging to farming

some 3,500 years ago and constructed their stone villages, many of which remain in place today. Beginning approximately seven hundred years ago, most of the Ancient Puebloans moved to other lands to the east. When the Utes obtained the horse from the Mexicans in the early 1600s, they quickly became master riders and extended their domain to a large part of the Central Rocky Mountains. Their hunting expeditions made their way to the Bears Ears region and they established many trails, including one that led to the hunting grounds of the Henry Mountains. Navajos hunted and lived in Bears Ears and built hogans and other structures until they were removed against their will to the reservation in the 19th Century. Many other Tribes, (virtually all of whom have formally supported this proposal) also have significant historical contacts with Bears Ears, including the Southern Ute; White Mountain and Jicarilla Apache; San Juan, Kaibab, and Utah Paiute; Hualapai; Havasupai; and the twenty Pueblos of the All Pueblo Council of Governors.

Today's Tribal people continue to view the Bears Ears country as part of their ancestral homeland and currently use the area. "We go with offerings to our sites. We knock on that wall and say our names—just like you should—you make your entry properly, and address those that reside there as grandmothers and grandfathers as they are. There is no dimension of time in the spirit world. It's good to come here to the sites, to your grandmothers' homes, you remember how it was to be there. With an offering, perhaps some corn meal, you identify yourself, you sing a song and the children dance, and we just speak our language. Your name, your clan, your kiva."(Joseph Suina, Cochiti Pueblo)

Bears Ears is home to more than 100,000 Native American cultural sites, ranging from lithic scatter to granaries to complex villages. Some are in faraway backcountry. Others require a day hike. Still others are easily accessible. This is one of the world's premier areas for

reflection on the work of long-ago societies. These sites are treasured by anyone who visits them, and members of all Tribes are deeply moved by them. "Cedar Mesa is a part of our footprints, a path that tells a story. History is crucial to man because it tells us of who we are. Those who lived before us have never left. Their voices are part of the rhythm or heartbeat of the universe and will echo through eternity."(Alfred Lomahquahu, Hopi) "The importance of Bears Ears for our people is through our ancestral sites that were left behind eons ago by our ancestors. They documented the sites by using oral history, pictographs, and by leaving their belongings. When we visit Bears Ears, we connect with our migration history immediately without doubt. With that, we must preserve, manage and educate our future generations." (Phillip Vicenti, Zuni)

We have been here the longest, but the appreciation of the life ways of our ancestors is universal. Parents from other cultures cannot receive a greater reward than to watch their boisterous girls and boys go silent and reflective as they come upon an ancient stone village with panels of petroglyphs nearby. It both calms and challenges them. They ask their parents question after question. How long ago was this done? How many people lived here? Did they have friends down the canyon in the village we saw this morning? You say they probably hunted and grew crops up on the mesa above. But how could they possibly have climbed up those sheer canyon walls? How did they get water? And, of course, the parents are calmed and challenged themselves. For these places call out to all people, young and old, from this continent and every other, Native and non-Native.

C. <u>The Tribes Are Forced Off the Land</u>

The United States' "Manifest Destiny" movement, with its aim of settling the West for American homesteaders, reached the Bears Ears region in the early 1850s. The Tribes dug in,

trying to save their homelands. In 1864, the cavalry rounded up 8,000 Navajos and force-marched them on the Long Walk to brutal confinement at Bosque Redondo in New Mexico. After four years, the Navajo Nation and United States signed the 1868 Treaty and the prisoners were marched to the new reservation. In the years that followed, the Cavalry then kept the Navajos and the other Southwestern tribes on their reservations, which did not include the Bears Ears landscape. Chief Manuelito objected to his treatment: "The whites have many things we Navajos need. But we cannot get them. It is as though the whites were in a grassy canyon and there they have wagons, plows, and plenty of food. We Navajos are up on the dry mesa. We can hear them talking but we cannot get to them." Mariette Wetherill, *Life with the Navajos in Chaco Canyon*, p. 9 (1992). Stella Eyetoo, a 93-year old Ute Mountain Ute elder from White Mesa, voices a similar lament: "I don't know how come they put us on this island? They know there is good stuff up there. [Down here] it is hard to get good water and stuff. Nothing really grows, just these weeds I was trying to cut."

Despite pressure from the military and, later, the Bureau of Indian Affairs, Utes, Navajos, and other Tribal members found ways to cross the deep San Juan River and travel to the homeland at Bears Ears. These trips often included deer and elk hunting—some families hunted for two or three months at a time to lay away jerky for the winters—but gathering of herbs and medicines was common and most if not all of these journeys included ceremonies, offerings, and healing.

At first, the American settlers were not a detriment. The small town of Bluff, first settled in 1880 by the historic Mormon Hole-in-the-Rocks expedition, and other early settlements and ranches were generally friendly toward the Native Americans and often traded with our people. Over time, though, the settlers of southern Utah became more and more aggressive toward the

Tribes, whom they saw as outsiders. The towns of Bluff, Blanding, and Monticello, for example, were all important winter camps for the Utes due to the reliability of water, warmer winter temperatures, and the abundance of mule deer and other wildlife. The settlers forced the Utes to relocate out of the area to less favorable locations. To these Americans, they had gone to great lengths to settle a harsh and difficult land in order to make it productive for farming and ranching; in their minds, they had earned the right to occupy it. Native people were required, in their view, to stay on the reservations and that is where they should remain.

Increasingly, beginning in the late 19th and early 20th centuries, these attitudes were enforced at the point of a gun. Some American Indians were shot and killed, spreading fear among all of the Tribes. Native people grazing sheep, cattle, and horses were forced off meadows, though by law and policy these were open public lands. Corrals, shade houses, and hogans were burned to the ground. Not all the abuse was physical: Natives visiting Bears Ears or the towns regularly had to endure shouts of "go back to the reservation." Our people continued to visit their homeland, but the harsh, unwelcoming atmosphere caused the number of visits to decline.

Over the past generation, the atmosphere has lightened, but the tensions have not gone away. Some hogans, corrals, and sweat lodges have been burned. The insult of "go back to the reservation" is still heard. At a recent gathering of this Coalition, a local rancher tore down the signs for the meeting. The gruesome, deeply painful robbery and vandalism of graves and villages continues.

Still, Tribal people return to Bears Ears. How could they not? The ties are so strong. "Our ancestors left their footprints here, our medicine society came up this way and we still have medicine here that were taken over and impeded by land owners. This area is very important to

us as well. They are standing in front of us, listening to us. How we are going to protect Mother Earth from destruction? I hope our spirits listen and grant us protection."(Ronnie Cachini, Zuni) As Eric Descheenie, Navajo, explains, "Some people say that we haven't been at Bears Ears in recent times. Others say that some of us aren't from Utah and don't belong there. All of that is so definitely wrong. We were there before any of the states and live nearby. *We don't see Bears Ears in terms of state lines.*"



III. THE INTER-TRIBAL COALITION AND THE PREPARATION OF THIS PROPOSAL

During the 19th Century and much of the 20th, we were kept down, treated by the BIA as if we were children. All those years we grieved over the grave robbing and industrial development that was tearing up our land and wounding our rivers, but did not have the resources to seek relief. Then veterans began coming back from World War II and the Korean War. They showed what they could do and they were respected by Indians, and by the white people as well, for their bravery and service. Those veterans made some progress and we Indian people began to get organized. Then came the Civil Rights Movement and the War on Poverty, which allowed us to form Community Action Programs. Vine Deloria, Jr., inspired us with his writings. We became more and more active. "I started working on this in 1964. Bobby Kennedy [running for President in 1968] came to Bluff and met with Navajos. The elders were talking about Cedar Mesa, Anasazi ruins. They told Bobby Kennedy that you have to protect this land."(Mark Maryboy, Navajo)

Our Tribes did get more active and took action on numerous subjects involving Tribal sovereignty, natural resources, and social and economic matters. We worked with the National Park Service to address archaeological concerns in several parks and monuments. Bears Ears remained of grave concern to us but for many years we did not address it comprehensively. That was probably due to its remoteness and the power of the San Juan County Commission, governing the country where Bears Ears is located, which has always been in favor of big, rapid development and indifferent at best to Indian and environmental concerns.

In February 2010, former Senator Bob Bennett initiated a promising legislative process to resolve the debate over public lands and wilderness protection in San Juan County. At the time, Kenneth Maryboy was one of three San Juan County Commissioners as well as a Delegate to the

Navajo Council. Working closely with Tribal elders, he helped lead an effort in which Native Americans would work with San Juan County to develop a shared legislative proposal. At the same time, because it was unclear what the legislative process would produce, the Navajo Nation decided to pursue a parallel process—requesting a presidential proclamation under the Antiquities Act. In 2011, Navajo President Ben Shelley met with Interior Secretary Ken Salazar and requested a national monument proclamation.

After Senator Bennett was not re-elected, U.S. Congressman Rob Bishop, later joined by Congressman Jason Chaffetz, instituted in 2013 a similar process in the House of Representatives called the Public Land Initiative, or PLI. By then, the non-profit organization, Utah Diné Bikéyah (UDB) with Willie Grayeyes as Board Chairman, had formed to work with the Navajo Nation to represent the Navajo and Ute people in the congressional attempt to resolve the long-standing debate over wilderness and other forms of protecting public lands in Utah. UDB has done a prodigious amount of work. It has interviewed and surveyed thousands of people; held eight Town Hall meetings; obtained over 15,000 statements of support; held five annual gatherings of Tribes at Bears Ears to discuss land protection strategies; interviewed dozens of elders and medicine men; developed sophisticated GIS data and many maps displaying that data; and obtained 24 resolutions of support from many Navajo chapter houses and Tribes.

Importantly, the PLI is oriented to solutions on a county-by-county basis, and Bears Ears is located in San Juan County. In April 2013, the Navajo Nation and UDB made its submission to the county, proposing, with extensive research and detailed mapping, the creation of a Bears Ears National Conservation Area, to be co-managed by Tribes. The County never responded. In 2014, the County completed an eighteen-month public land planning process that essentially ignored the Native Americans. This in spite of the fact that Native people, by 2014 U.S. Census

Bureau statistic, comprise almost half of the County's population. Toward the end of the process, the county put up various proposals for public comment but refused to include the Navajo-UDB proposal on the survey. Despite not even being on the survey, the Native American proposal received 64% of the vote.

The well-stated views of the county's Native American citizenry continued to be of no matter to the County. In July 2015, the San Juan County Commission recommended a national conservation area that was much smaller than the Navajo-UDB proposal; designated large swaths of Bears Ears as an "Energy Zone;" and was inconsistent with the proposal in several other important respects. That recommendation was proposed to the PLI, but Congressmen Bishop and Chaffetz have yet to finalize their proposal for San Juan County public lands.

In addition to San Juan County processes, we have also been unable to make any headway at the PLI level. The Navajo Nation and UDB made more than two dozen presentations at meetings attended by federal, state, and local officials involving PLI issues. At each one, with Congressional staff attending about half of them, we made an oral presentation and handed out summaries and maps putting forth a proposal similar in concept to this Coalition proposal. Further, between 2013–2015, we made four visits to Washington DC, met with the two Congressmen and their staffs, and made presentations as just described. We have never received a single substantive response.

Over all, at no time has either the PLI or the County visited the Tribal headquarter of any Tribe or engaged the Navajo Nation, UDB, or the other Tribes in any substantive discussions. These events involving the PLI process are recounted in more detail in the timeline contained in Exhibit One of this proposal.

The gathering of Tribes in 2014 reaffirmed the critical need to achieve protection for Bears Ears; it examined the alternatives of pursuing the legislative routes through the Bishop-Chaffetz process, and the possibility of achieving a presidential proclamation under the Antiquities Act. The 2015 Tribal gathering, held in Bluff, with visits to, and over flights above, the nearby Bears Ears area, sharpened the issues even more. The PLI effort had not yet led to anything, and the deadline for a presidential proclamation loomed ever closer. Native people have learned from long, bitter experience that they cannot be pushed and rushed into making decisions too quickly. At the same time, conditions may make it impossible to avoid taking action because of the need to meet deadlines inherent in the Federal system. "We must have a vision to build trust among the Tribes, share and learn from each other, and establish a base or foundation to pursue the designation. Working together we can climb this mountain successfully. We know there is a short window of opportunity at this time. If we do not agree, the project proposal will place us years before another opportunity will occur."(Willie Grayeyes, Navajo) "This is historic. It is a chance for us, Tribes or indigenous people, to have a say in what happens to this area. A lot of people might call this a landmark decision."(Ben Nuvamsa, Hopi)

The group decided to hold a special meeting to decide what the strategy should be. The meeting was held in Towaoc on the Ute Mountain Ute Reservation on July 15-17. The third day, Friday, was reserved for a meeting with senior Federal officials from Washington, D.C. That meeting was held in the ultimately appropriate and inspiring place, within the proposed monument, in a clearing in a sunny ponderosa pine forest directly below the majestic natural formation, the Bears Ears.

The day before, at the Thursday meeting in Towoac, Tribal leaders had made a series of critical decisions that energized the already enthusiastic Bears Ears Movement. UDB, as a non-profit organization, and the Navajo Nation had always wanted this effort to be headed up by a multi-Tribal organization comprised of Tribes with strong connections to the Bears Ears. Thus, at Towaoc, to formally unite in furtherance of protecting the sacred Bears Ears landscape, Tribal leaders from Hopi, Navajo, Uintah and Ouray Ute, Ute Mountain, and Zuni agreed to create the Bears Ears Inter-Tribal Coalition to protect and preserve the homeland area they all care so deeply about. All of the Tribes passed resolutions on the subject before the meeting or shortly after it. The five Tribes then adopted an MOU setting forth the mission, function, and procedures for the Coalition. "I know that if we all can go through this together and fight this together, we're going to make a stronger union than if we go alone. I think we're going to be a great model for everyone else out there. We can make a really big footprint." (Alfred Lomahquahu, Hopi) "We decided this group is an important group because you're working on something that excites people that has a magnetism, something that's worth our while, preserving a sacred place that Indian people will always have, where they are doing their prayers and other cultural practices."(Peterson Zah, Navajo)

This July 2015 meeting was a major milestone. Federal Indian policy, including the trust relationship, is based on the bilateral relationships between recognized sovereign Tribes and the United States. Indian Tribes each have their own individual histories, cultures, and concerns. It is rare that Tribes work together in this fashion, but all the circumstances were right in the case of Bears Ears. "The idea of being a family, all together, one direction, is stronger than individual efforts. The unity of the group fuses all Tribes in the future. Our lifestyle, our food, our way of

life seems to be the cornerstone for our position, and I'd like to express my support for that."(Willie Grayeyes, Navajo)

The newly-formed Bears Ears Inter-Tribal Coalition, recognizing the significance of the creation and management of a Bears Ears National Monument, decided that they themselves should craft a comprehensive, detailed proposal, to be submitted to the President by a self-imposed deadline of October 15, 2015. Submission by this date would allow the President ample time to consider, and hopefully sign, a proclamation under the Antiquities Act. This would also allow time for the Bishop-Chaffetz process to review our proposal and present their own, if so inclined. In the meantime, during the late summer of 2015, the Tribes held three more intensive meetings hosted at the tribal lands of the Coalition members.

Over the five years of preparation for this proposal, meetings were uniformly well attended. Speakers always felt comfortable to express their true beliefs and feelings. The discussions were always far-ranging. The six meetings in 2015 were especially productive in terms of honing a specific proposal. These meetings were long, coupled with numerous phone calls, emails, and conference calls to discuss drafts. We discussed Collaborative Management often and in depth, and unanimously supported a strong version of Collaborative Management. In all, this proposal represents the true voice of these Tribes and our determination to present to the United States a program that is workable in the real world of land management. This program will add even more luster to the proud American system of conservation lands, and bring justice to worthy Tribes and individuals and a sacred landscape. "We hope to go to Bears Ears to learn. Our history lies within the landscape and when we go there we find missing chapters of our book."(Jim Enote, Zuni)

IV. MONUMENT BOUNDARIES

Over the past five years, we have given extensive attention to determining the objects of protection and the appropriate boundaries for the Bears Ears National Monument. We had many discussions with elders who are familiar with traditional use areas. Many of those people continue to use the area. We also interviewed younger grassroots people who use the area regularly. We have included this topic at our community meetings and obtained valuable information in those forums.

We created a map encompassing 1.9 million acres, page 6 above, which conforms to the large amount of information we have obtained and analyzed. This map reflects extensive on-the-ground organizing, GIS data work, and community outreach that allowed us to determine and locate Tribal uses of the Bears Ears landscape. These uses include land valued by Tribal members for gathering of medicines and herbs, worshipping at sacred areas, holding ceremonies, protecting archaeological sites, gathering firewood, hunting, protecting wildlife habitat for deer, elk, and bighorn sheep, and maintaining natural beauty and solitude. We also determined the areas where the threats to land health are the highest. While we wish we could protect more of this ancestral landscape, what we are left with—and now propose—is what we believe is the smallest area compatible with the proper care and management of the objects we believe should be protected by this monument designation.

As for the monument boundaries, we propose this next step. We will meet with departmental officials and, working from a large-size map, grassroots people with extensive knowledge will explain how the proposed boundaries conform to protected historical and scientific objects in the region and to substantial Tribal and public interests. We also will provide GIS data that displays the information we have gathered showing the areas of high Tribal interest. We look forward to these discussions with you so that you can fully assess the

appropriateness of these boundaries. For our part, we know that we have identified a landscape that fully and fairly reflects our long and deep connection with this important part of our ancestral homeland and that it presents an outstanding opportunity for protection under the Antiquities Act.

V. COLLABORATIVE MANAGEMENT: THE LEGAL BASIS

A. Definition of Collaborative Management

Importantly, and as reflected in this proposal, the effort to preserve Bears Ears has always been premised on Collaborative Management between the Tribes and the Federal government. Only then will we Native people have real influence on how this sacred land is managed. At the outset, we emphasize that we do not claim direct precedent for the kind of Collaborative Management that we propose. In the Pacific Northwest, the Tribes, the United States, and the State of Washington do co-manage salmon and other marine resources. That system, however, arose out of specific treaty provisions and a sweeping 1974 court decision supplemented by four decades of statutes, appropriations, intergovernmental agreements, informal relationships, and other factors. Alaska Natives also have co-management responsibilities over some marine animals arising from various statutes and regulations involving circumstances not at work here. In the context of national monuments, presidents have often referred in monument proclamations to Tribal participation but they have accorded Tribes only the right to be consulted, not to collaboratively manage. Perhaps the strongest presidential declaration language to date is in the 2001 Kasha-Katuwe National Monument proclamation, which required "close cooperation" with the Cochiti Pueblo.

At the same time, the idea of strong Tribal management authority on public lands is taking hold. Modern Tribes now possess substantial land management capability. A serious

proposal to provide for expansive management authority by the Pine Ridge Sioux Tribe on the South Unit of Badlands National Park is now before Congress. At the National Bison Range in Montana, the U.S. Fish & Wildlife Service has issued a draft environmental assessment in which the preferred alternative would provide for true collaborative management between the Service and the Confederated Salish and Kootenai Tribes. The land management and legal literature now includes considerable attention to this brand of collaborative management.

At Bears Ears, as at the Badlands and the Bison Range, the tribes have no legal right to expansive management responsibility. It is a matter of discretion. Here, as we will discuss, the President has the authority under the Antiquities Act to provide for collaborative management at Bears Ears. The question is whether, as a matter of good public policy, he should exercise it. Certainly, as we will discuss, these Coalition Tribes present compelling circumstances.
We propose Collaborative Management in this fashion:

1. The Agencies and the Tribes shall, from the beginning to the conclusion of all plans and projects, collaborate jointly on all procedures, decisions, and other activities except as otherwise provided in the Proclamation.
2. In the case of impasse, undue delay, or other extraordinary circumstances, the Agencies and the Tribes shall proceed to appropriate mediation. If such mediation fails, the Secretary of Interior or the Secretary of Agriculture, as appropriate, shall in a written opinion explaining the reasons, make the relevant decisions.

B. Presidential Authority to Proclaim Collaborative Management

The Property Clause of the Constitution vests Congress with primary authority over the Federal public lands. U.S. Const. art. IV, § 3, cl. 2. Through the Antiquities Act of 1906, Congress lawfully delegated a part of this authority to the President, enabling him to declare national monuments through proclamations. Because of the sweeping language of the Act, allowing him to protect prehistoric, historic and scientific "objects" "in his discretion," this delegation is recognized as one of the broadest delegations of presidential authority found anywhere. For the many decisions on the subject, see generally *Cameron v. United States*, 252 U.S. 450, 455-56 (1920); *Mountain States Legal Foundation*, 306 F.3d at 1133 (D.C. Cir. 2002); *Utah Ass'n of Counties v. Bush*, 316 F.Supp.2d 1172 (D. Utah. 2004) *appeal dismissed*, 455 F.3d 1094 (10th Cir. 2006). Indeed, no action under the Antiquities Act has ever been overturned by the courts.

Under the Antiquities Act, presidents possess broad discretion to determine by proclamation what practices constitute "proper care and management." In recent times, presidents have used their authority under the Act to govern management in the monuments:

> "Although many of the early proclamations were quite terse and did not contain much if any guidance on how the monuments were to be managed, the Carter and particularly the Clinton proclamations contained quite a bit of detail on area management; *e.g.* defining the extent to which water was reserved as a matter of Federal law, and the extent to which grazing, off-road vehicle travel, hunting and fishing, and other activities might be allowed.") George Coggins, Charles Wilkinson, John Leshy & Robert Fischman, *Federal Public Lands and Resources Law*, 400 (7th ed. 2014).

Presidential authority to determine proper care and management is evident from many proclamations. President Clinton's proclamations included monument management directives for the purpose of protecting monument objects. Examples include:

> The Secretary of the Interior shall study the impacts of livestock grazing on the objects of biological interest in the monument with specific attention to sustaining the natural

> ecosystem dynamics. Existing authorized permits or leases may continue with appropriate terms and conditions under existing laws and regulations. Should grazing be found incompatible with protecting the objects of biological interest, the Secretary shall retire the grazing allotments pursuant to the processes of applicable law. Should grazing permits or leases be relinquished by existing holders, the Secretary shall not reallocate the forage available under such permits or for livestock grazing purposes unless the Secretary specifically finds, pending the outcome of the study, that such reallocation will advance the purposes of the proclamation. Presidential Proclamation 7318 (Establishment of the Cascade-Siskiyou National Monument June 9, 2000)
> The commercial harvest of timber or other vegetative material is prohibited, except when part of an authorized science-based ecological restoration project aimed at meeting protection and old growth enhancement objectives. Any such project must be consistent with the purposes of this proclamation. No portion of the monument shall be considered to be suited for timber production, and no part of the monument shall be used in a calculation or provision of a sustained yield of timber. Removal of trees from within the monument area may take place only if clearly needed for ecological restoration and maintenance or public safety. Presidential Proclamation 7318 (Establishment of the Cascade-Siskiyou National Monument June 9, 2000)
>
> Because most of the Federal lands have already been leased for oil and gas, which includes carbon dioxide, and development is already occurring, the monument shall remain open to oil and gas leasing and development; provided, the Secretary of the Interior shall manage the development, subject to valid existing rights, so as not to create any new impacts that interfere with the proper care and management of the objects protected by this proclamation; and provided further, the Secretary may issue new leases only for the purpose of promoting conservation of oil and gas resources in any common reservoir now being produced under existing leases, or to protect against drainage. Presidential Proclamation 7317 (Establishment of the Canyons of the Ancients National Monument June 9, 2000)
>
> [G]razing permits on Federal lands within the monument south of Interstate Highway 8 shall not be renewed at the end of their current term; and provided further, that grazing on Federal lands north of Interstate 8 shall be allowed to continue only to the extent that the Bureau of Land Management determines that grazing is compatible with the paramount purpose of protecting the objects identified in this proclamation. Presidential Proclamation 7397 (Establishment of the Sonoran Desert National Monument, January 17, 2001).

The Clinton monuments were tested by several court cases but the proclamations were uniformly upheld. This included attacks on provisions relating to management. See, e.g., *Tulare County v. Bush*, 306 F.3d 1138, 1142 (D.C Circuit, 2002), *cert. denied,* 540 U.S. 813, where the District of Columbia Circuit Court of Appeals upheld the establishment of the Giant Sequoia

National Monument and the inclusion of specific management directives on ecological restoration of monument objects within the proclamation.

President George W. Bush's Proclamation establishing the Northwestern Hawaiian Islands Marine National Monument includes highly specific management directives, perhaps the most far-reaching declared for any monument. Presidential Proclamation 8031, 71 Fed. Reg. 51134. Among other things, President Bush imposed detailed restrictions on commercial fishing within the monument, set forth elaborate requirements governing access and vessel monitoring systems, and imposed provisions defining traditional Native Hawaiian practices within the monument:

> 2. Additional Findings for Native Hawaiian Practice Permits. In addition to the findings listed above, the Secretaries shall not issue a permit to allow Native Hawaiian practices unless the Secretaries find:
>
> a. The activity is non-commercial and will not involve the sale of any organism or material collected;
>
> b. The purpose and intent of the activity are appropriate and deemed necessary by traditional standards in the Native Hawaiian culture (pono), and demonstrate an understanding of, and background in, the traditional practice, and its associated values and protocols;
>
> c. The activity benefits the resources of the Northwestern Hawaiian Islands and the Native Hawaiian community;
>
> d. The activity supports or advances the perpetuation of traditional knowledge and ancestral connections of Native Hawaiians to the Northwestern Hawaiian Islands; and

e. Any monument resource harvested from the monument will be consumed in the monument.

The Obama Administration has continued the trend of including management directives within National Monument Proclamations. For example, the proclamation establishing Browns Canyon National Monument contains provisions on recreation designed to protect monument objects:

> "Except for emergency or authorized administrative purposes, motorized and mechanized vehicle use in the monument shall be allowed only on roads and trails designated for such use, consistent with the care and management of the objects identified above. After the date of this proclamation, new roads or trails may only be designated for motorized vehicle use in areas west of the Arkansas River and at the Ruby Mountain Recreation Site and then only as necessary to provide reasonable river or campground access, consistent with the applicable management plan. Forest Road 184 may be realigned or improved only if for the care and management of the objects identified above or as necessary for public safety. Proclamation 9232 (Establishment of Browns Canyon National Monument, February 19, 2015).

The President's exact authority to provide for Collaborative Management with Tribes under his power to determine proper care and management has not been tested because no president has yet provided for it, but every sign is that the courts would uphold it. There are limits, however. As the next section discusses, the delegation to the Tribes cannot go too far.

C. The Lawful Delegation to the Tribes

Collaborative Management does mean that President Obama is delegating some authority over the public lands to the Tribes, but it is not a delegation of complete authority: the Tribes and agency officials will be working together as equals to make joint decisions. The unlawful delegation doctrine addresses cooperative efforts between Federal agencies and non-Federal entities. In a case where the National Park Service delegated essentially all decision making over the Niobrara National Scenic River, the court found that "NPS cannot, under the unlawful

delegation doctrine, completely shift its responsibility to administer the Niobrara to a private actor." *National Parks and Conservation Association v. Stanton*, 54 F.Supp.2d 7, 18 (D.D.C.1999). The court made it clear, however, that such delegations are unlawful only if they attempt to transfer full and complete authority: "Delegations by Federal agencies to private parties are, however, valid so long as the Federal agency or official retains final reviewing authority." See also, *Riverbend Farms v. Madigan*, 958 F.2d 1479, 1488 (9th Cir.), cert. denied, 506 U.S. 999 (1992); *Ocean Conservancy v. Evans*, 260 F.Supp.2d 1162, 1183 (M.D. Fla. 2003). See generally Department of the Interior, Office of the Solicitor, *Partnership Legal Primer* (2004).

In our request for Collaborative Management, we have designed a system that fully complies with concerns of unlawful delegation. The starting point is that delegations to non-Federal entities can be made. They cannot, though, be total—or, let us say, nearly so. Here, the Federal and Tribal teams are directed to work together to reach joint decisions. Up to that point, the system does not violate the unlawful delegation doctrine because, by definition, the Federal agency will have approved these decisions. But, if the collaborators cannot agree, the dispute will go to mediation. If all that fails, then the Secretary of Interior or Agriculture makes the final decision. The Departments, therefore, have three final decision-making mechanisms and the requirements of the unlawful delegation doctrine have been met.

In putting this system forward, we have been guided in part by the experience at the Montana Bison Range, referred to above. Our approach is not identical, but we have adopted several aspects of the Bison Range approach, including the important idea of having the appropriate Secretary have final say if there are disagreements. That principle is key to full and proper compliance with the unlawful delegation doctrine.

Obviously, there are complexities here relating to matters other than legal sufficiency, and the next two sections explain our system further and suggest ways to make it work smoothly, which it absolutely can. In working through these issues, we hope that Federal officials keep in mind how unique and compelling these circumstances are. This monument, owned though it now is by the United States, will consist of our treasured ancestral lands. Those lands and our physical legacy in them have been treated badly—horridly, in many instances. The United States has a trust relationship with our sovereign governments. The Tribes, through their deep knowledge of this land, their scientists, their land managers, and their artists and poets and songs, will help present this sacred area to the world in a way that cannot possibly be done without their partnership. Those facts should pervade the decision-making that will follow this proposal. They will give President Obama special impetus to proclaim true Federal-Tribal Collaborative Management for the first time in the nation's history and provide a sound basis for an express presidential finding in the proclamation that Collaborative Management will enrich and improve the proper care and management of the monument. Those facts will give added protection to the proclamation and serve as essential context as we work with you to adopt the right system of Collaborative Management.

VI. COLLABORATIVE MANAGEMENT: IMPLEMENTATION

Collaborative Management at Bears Ears needs to be more than just legally sufficient. It must work on the ground—efficient and smooth-running in the real world of land management. We have discussed these issues with many Federal and Tribal land managers and present this formulation as an effective, workable way to bring the Traditional Knowledge, scientific expertise, management experience, and commitment of the Tribes to the Bears Ears National Monument in concert with the Federal agencies. The matter of having five Tribes and three Federal agencies, while potentially unwieldy at first blush, can be resolved effectivel

A. The Bears Ears Management Commission and the Monument Manager

This Commission would be the policy making and planning body for the monument and would have supervisory authority over the Monument Manager. It would be a federally-created entity but not a federal agency. It would have eight members, one from each Tribe and one from each Federal agency. The Tribal members would receive salaries. The Commission members would choose a chairperson. The Commission would report to the Secretaries annually on the success of administering the monument in accordance with the terms of the proclamation and on plans and needs for the upcoming year.

The Manager would be hired, and could be fired, by the Commission. Indian preference would be followed in accordance with existing law. The Commission will set policy within the bounds of the proclamation, the management plan, and MOUs or MOAs, discussed below, adopted in connection with the proclamation. The Commission will set performance standards for the Manager and conduct annual performance reviews. The Commission chairperson, on behalf of the Commission, will have the direct supervisory relationship with the Manager. The Manager would report directly to the Commission.

Senior staff, perhaps including a Deputy Manager and division chiefs, will be hired by the Manager with policy guidance from the Commission. The Manager will have responsibility for hiring operational staff. Ideally, staff will be deep in both traditional Native American values and knowledge and western science as well as public land management. We request that these critical hires will be made in full consideration of the special needs of this national monument and that the monument offices be located in the best location for visitors to the monument.

The work of the Bears Ears Inter-Tribal Coalition has received a great deal of enthusiasm among the public, the media, non-profits, foundations, and corporations. One of many

encouraging developments took place in August 2015. Two major foundations have advised us that they have strong philanthropic interest in Bears Ears and will provide substantial funding for Tribal planning and management at the proposed Bears Ears National Monument. This generosity would assure a solid start-up capability for the Tribes' Collaborative Management work.

Of course, stable, long-term funding will be necessary for Bears Ears. It is now quite commonplace for the Federal land management agencies to provide funding to Tribes for work (though it has not been as extensive as Collaborative Management) on Federal land units. We request that the Bears Ears presidential proclamation direct agencies to use their best efforts to provide funding under the Indian Self-Determination statutes and other authorities for collaborative Management at Bears Ears. The Intergovernmental Personnel Act will be of use here.

The BLM, Forest Service, and Park Service all have lands within the proposed monument. The Tribes have strong connections with each of those areas, often developed long before the Federal agency boundaries were drawn. This is one large cultural landscape with extraordinary scientific and historical objects that should be managed as one, with, for example, the management plan and operations generally applying throughout the monument.

B. Monument Planning and Operations

The joint decision-making will begin with the management plan called for by the proclamation. This key document, second in importance only to the proclamation, would be developed by Monument staff, with the Commission providing specific direction to staff regarding plan design and content, as well as review throughout the process of plan development. Members of the public and other key stakeholders would have ample opportunity

to contribute to the development of the plan through normal NEPA processes. Presumably, the proclamation would direct that this plan be completed within the customary three years. As for the day-to-day operations, Commission members will develop procedures (some may already have been agreed to in the supplemental MOAs or MOUs, discussed below) and begin work on tackling the many issues to be determined in the management plan.

Operationally, it is essential that matters be carried out by a single leader, hopefully the kind of top-flight person who can serve for many years. The Manager, under policy direction from the Commission, will be responsible for day-to-day operations and designing an organization that accounts for basic functional areas such as budgeting, procurement, human relations, maintenance, cultural resources, and natural resources. This proposed monument will be open to all members of the public and the Tribes fully accept and honor their obligation to administer this area fairly and equally for all persons.

C. **The Fruits of Collaborative Management**

Those are some comments on the procedural aspects of Collaborative Management. But the ultimate goal is to achieve substantive results, hopefully—and realistically—ones that qualify as groundbreaking and enduring. Earlier, we referred to the opportunity to develop a world-class program or institute in Traditional Knowledge at the proposed monument. In accomplishing that, the Commission and staff will possess solid expertise. The effort could quickly develop the kind of energy and quality that would pull in outstanding outside practitioners and scholars interested in Traditional Knowledge.

To demonstrate this, Phillip Vicenti and Octavius Seowtewa offered, for this proposal, an example of how Traditional Knowledge can combine with western science to unlock secrets of the past. "With our oral history from generation to generations, the Zunis (A:shiwi) emerged

from the fourth world. They emerged from the lower depths inside Grand Canyon. The place of our emergence in the Grand Canyon is a place called 'Ribbon Falls.' As our people journeyed, starting below the Grand Canyon, searching for the middle place of the world, our ancestors traveled in different directions. Some of our people went south, some went north, some went west, and some continued toward the east. The ones who continued north were the medicine people. Using our oral history with the scientific archeology findings, it is evident that our ancestors did indeed inhabit the surrounding Bears Ears area at one point in time. To exemplify the scientific finding, our migration history, our songs and prayers that we practice today do reference that area." (An article recounting this collaborative effort crossing cultural and scientific lines is "Native American Oral Tradition and Archeology, Issues of Structure, Relevance, and Respect," with Roger Anyon, Loretta Jackson, Lillie Lane, and Phillip Vicenti in *Native Americans and Archaeologists: Stepping Stones to Common Ground*, ed. Nina Swidler, Kurt Dongoske, Roger Anyon, and Alan Dower. Walnut Creek, Calif., Alta Mira Press 1977, 77-87.).

Another area for exciting collaboration is map art, which is a natural medium for creating both influential research and programs and other outreach to the public. The leader in this area of creative Traditional Knowledge, art, and expression of the natural world is the A:shiwi A:wan Museum and Heritage Center, located at the Zuni Nation, which currently is presenting a map art exhibition at the Fowler Museum at UCLA. "The Zuni community is arguably one of the world's great centers of art. At least one person in practically every household is actively and consistently creating art. In what some might consider a dry and dreary environment, we embellish and embroider the simplest things. We enjoy the sound, look, and feel of beautiful things; and try to look our best, especially during the many social and ceremonial events that

occur throughout the year."(Jim Enote, *A:shiwi A:wan Ulohnanne: The Zuni World* (Enote and McLarran, Eds.) P.5 (2011))

The notion of traditional map art, in which artists portray natural landscapes in colorful images that evoke their own visions and feelings, resonates with other Tribes. Map art is a natural for public displays and programs. The new monument will be a promising place for extensive collaboration in this engaging and creative fusion of culture, art, the natural world, and geography.

Then there is traditional land management itself. Collaborative Management at Bears Ears offers a first-ever opportunity to truly infuse Native values into public lands administration by pulling upon both indigenous knowledge and Western science. Both have great value. The enterprise of honoring and using both bodies of thought and experience, and thus mediating across knowledge systems, can be a unique contribution of this monument. As such, their work can both enrich on-the-ground conditions and produce cutting-edge research for land managers everywhere.

Our Tribes are already doing this. The Ute Mountain Ute have offered a good example of how effective use of both western and Traditional Knowledge can combine to achieve significant collaborative results. During excavation for the Animas-La Plata Water Project, a number of distinct communities and burial sites were uncovered at the present location of Ridges Basin Reservoir. Together, with funding provided by the Bureau of Reclamation, the project team consulted with over twenty Tribes and Pueblos in the southwest region on how to proceed with handling the remains and other uncovered objects. Ernie Vaillo, an Acoma Pueblo medicine man, was the lead consultant on behalf of the Tribes. The process was completed with a ceremony that respected the cultural practices of each Tribe. The Ute Mountain people

emphasize that this is not an isolated example; rather, this project represents a number of good, cooperative working relationships that our Tribes have built up with federal, state, and local bodies in recent years.

D. Federal-Tribal Agreements Supplemental to the Proclamation

The robust Collaborative Management envisioned by this proposal will involve details that are too specific to be covered in the proclamation. The Commission and Manager would benefit from MOAs or MOUs, created before or shortly after the proclamation, to chart out the nuts and bolts of their relationship. There are also substantive issues that would benefit from attention in this fashion, including the nature of the mediation process called for in the case of impasses; the use of the Intergovernmental Personnel Act; and the ability of both the Commission Chair and Monument Manager to speak with "one voice." Further, while it could be left to the Commission, it might be worthwhile to consider in advance the coverage of the management plan, i.e., the issues that are included within it.

Also, as noted, to secure funding for the Commission over the long term, the proclamation should encourage contracting and compacting under the Tribal Self-Governance Acts and other statutes. It might be wise to get a head start on that process through agreements, or even actual applications for funding, in advance of the proclamation.

VII. MONUMENT USES

A. Threats to the Bears Ears Landscape

Oil and gas companies are making a major push for new drilling on Cedar Mesa, Tank Mesa, and the breathtaking reaches of Lockhart Basin, Hatch Point and Harts Point near Canyonlands National Park in the northern part of the proposed monument. Large potash mining has also been proposed. All of our Tribes remember the uranium boom after World War II and the many illnesses and deaths of Indian people caused by reckless mining companies and the

indifference of the United States. Bears Ears holds uranium deposits that could be quickly accessed under the General Mining Law if market conditions change.

All existing mineral rights should be honored, but future mining should be prohibited in Bears Ears. Some of this area's greatest values are the long-distance Southwestern views; pure, stunning quiet; and the gift to visitors of taking time away from the workaday world, slowing down, and healing. A major objective of the proclamation should be to keep most of Bears Ears roadless and pristine. We should heed more than ever Teddy Roosevelt's wisdom when he turned to the Antiquities Act to protect the Grand Canyon: "Leave it as it is. You cannot improve upon it."

Responsible off-road vehicle use has a place in Bears Ears, but not irresponsible off-road vehicle use. Whether thoughtless or blatantly illegal, these riders can wreak significant impacts to both the natural landscape and our treasured archaeological sites. There has been a heavy toll on the land and our cultural legacy from decades of irresponsible use. Monument status for Bears Ears will lead to better management of off-road vehicle use and will improve the recreational experience for everyone who visits, including off-roaders.

Perhaps the worst of all is the looting and grave robbing. More than a dozen serious looting cases were reported between May 2014 and April 2015. From small-scale theft to ancestral remains being tossed around when graves are plundered, these deplorable acts defile the past and wound the present, which for us is so directly connected to the past. The loss has many dimensions. "The Hopi people made a solemn covenant to Maasaw to protect the land by serving as stewards of the Earth. The land is a testament of Hopi stewardship through thousands of years, manifested by 'footprints' of ancient villages, migration routes, pilgrimage trails, artifacts, petroglyphs, and the buried *hisatsinom*, 'the People of Long Ago,' all of which were

intentionally left to mark the land as proof that the Hopi have fulfilled their covenant. The Hopi ancestors buried in this area continue to inhabit the land, and they are intimately associated with the clouds that travel out across the countryside to release the moisture that sustains all life."(Herman Honanie, Hopi)

B. Uses to be Resolved in the Proclamation

Some uses in the monument will be addressed directly in the presidential proclamation while others will be taken up in the management plan ordered in the proclamation. Based on what we have presented in this proposal, we recommend that these provisions be included in the proclamation itself:

- A permanent withdrawal from the mining laws, for both location and leasing, of all lands within the monument.
- A permanent withdrawal from all other forms of leasing, selections, sales, exchange, and other forms of disposition under the public land laws, other than those exchanges that further the purposes of the monument.
- Motorized vehicle use should be permitted only on designated roads. Non-motorized mechanized vehicle use should be permitted only on roads and trails designated for their use consistent with the purposes of the monument. The management plan directed by the proclamation should include a transportation plan designating the roads and trails available for motorized or non-motorized vehicle uses.
- State of Utah and Ute Mountain Ute hunting and fishing laws should continue to apply within the monument.
- The Secretaries should be directed, upon request of the State of Utah, to negotiate with the state for an exchange of the state inholdings within the monument.

- The Secretaries should be authorized to draft regulations specifically governing matters related to the monument.
- The proclamation should provide for Collaborative Management, hopefully in the fashion that we have recommended in this proposal.
- The Secretaries should, working jointly with the Bears Ears Inter-Tribal Management Commission, be directed, within three years, to complete a management plan setting forth requirements for the proper care and management so that all monument uses will proceed in a manner fully consistent with the purposes of the monument. The management plan should, to the maximum extent permitted by law, ensure the protection of Native American sacred and cultural sites in the monument and provide access to the sites by members of Indian tribes for traditional and cultural uses, including gathering of minerals, medicines, berries and other vegetation, forest products, and firewood.
- Grazing under existing permits or leases should continue under existing law.
- Firewood gathering should continue under current management proscriptions and then be subject to such provisions as adopted in the management plan.
- The monument should be added to the National Landscape Conservation System.
- There will also be several standard proclamation provisions, mostly relating to protecting existing rights, generally and specifically protecting Tribal rights, Federal withdrawals, rights of inholders, and existing water rights.

C. Uses to be addressed in the Management Plan

We view the proclamation as delegating broad authority to the Secretaries and the Commission, working jointly, to adopt, in the management plan, provisions to regulate uses of monument lands so that those uses are consistent with the proper care and management of the monument lands and the objects protected by the proclamation. With those management standards in place, the Secretaries and the Commission will collaboratively administer and enforce the standards in the management plan. The management plan would also address non-regulatory matters such as scientific studies, including archaeology.

In our many Tribal discussions of collaborative management, we saw differences in the way Federal and Tribal agencies view "land management." Federal laws, and often state laws as well, generally call for regulating logging, grazing, mining, hunting and fishing, water diversions, and activities that cause air and water pollution.

At our meetings, when Tribal land managers and Tribal members discussed land management, they invariably used fundamentally different categories. These categories included: sacred sites, springs, ancient roads, medicines and herbs, deer and elk, ancient remains, beauty, grasses, animals, and others.

We think of it this way. It's not a matter of deciding which approach toward cataloguing is better or worse. What we believe is that there will be a powerful, constructive vitality and sense of searching for the right answers when the two groups work together in Collaborative Management, beginning with the management plan. We think it will result in as good a monument as there has ever been. And that's consistent with our fondest goal in this proposal.

VIII. CONCLUSION

If President Obama adopts the thrust of this proposal, he would be calling upon some of the truest currents of both Federal Public Land policy and Federal Indian policy. In 1906 President Roosevelt signed into law, and immediately began to execute, a recognition of the enduring power and dignity emanating from the earliest societies on this continent. Now President Obama, who already must be counted among the greatest Indian presidents, has built his Indian policy on the footing of the proud, strong sovereignty of contemporary Indian Tribes.

President Roosevelt stood determined to honor the worth of ancient civilizations by using a new and untried policy, that of using the public lands to protect those cultural treasures. Now President Obama can decide whether to meet a current opportunity to extend still more protection and honor to those civilizations and their modern successors. And as was the case during President Roosevelt's era, the best way, although it is legally available and consistent with his commitment to Tribes, is one that has not been utilized before.

Now the time and place to try it are at hand. Historically, our Coalition Tribes have shown remarkable staying power through our long, forced wait, unable to marshal the resources to address the many wrongs inflicted on our sacred homeland. We Coalition Tribes have shown, through our five years of diligence leading up to this proposal and our actions in many other arenas, that we are, in every regard, fit for this challenge: we are ready and able to work constructively and respectfully with the Federal agencies to elevate the protection and meaning of the Bears Ears landscape to a new and higher level. Yes: now is the time, and Bears Ears is the place to do it.

We thank you again for your willingness to entertain this proposal.

Respectfully submitted,

THE BEARS EARS INTER-TRIBAL COALITION

_____ _____

Chairman, Herman G. Honanie
Hopi Tribal Council

Date

_____ _____

President, Russell Begaye,
Navajo Nation

Date

_____ _____

Chairman, Shaun Chapoose,
Ute Indian Tribe Business Committee

Date

_____ _____

Chairman, Manuel Heart
Ute Mountain Ute Tribal Council

Date

_____ _____

Governor, Val Panteah
Pueblo of Zuni

Date

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EXHIBIT ONE
A TIMELINE: THE RELATIONSHIP OF THE PUBLIC LANDS INITIATIVE WITH THE TRIBES AND THEIR MEMBERS

I. Summary of Timeline

The timeline that follows this summary catalogues the extensive efforts of Native Americans to have their Bears Ears proposal considered in the Public Lands Initiative (PLI) process. The timeline also reflects the thousands of hours of time, more than one thousand Native American voices, and more than 225,000 of vehicle miles driven by Bears Ears Board Members and staff to develop and communicate the contents of this proposal. This proposal was perhaps the most well-researched, most grassroots, and most broadly supported initiative of any stakeholder or government group in the Public Lands Initiative. It was also the first proposal to be put on the table by a local government in this process, but frustratingly it seems to be the last to be recognized by elected officials in Utah. The timeline below is designed to detail these developments. Documents referenced in this Exhibit are available by visiting; http://www.bearsearscoalition.org.

Native Nations, including the Hopi, Navajo, Uintah and Ouray Ute, Ute Mountain Ute, and Zuni and Native Americans representing the Utah Diné Bikéyah (UDB) organization have been working respectfully and collaboratively with all parties to protect the Bears Ears landscape for more than five years. During that time, we have made this matter a top priority and, as catalogued in our proposal, have dedicated an extraordinary amount of productive time on public land issues in eastern Utah.

In 2010, Senator Robert Bennett initiated a process to resolve issues of conservation and development of public lands in eastern Utah. We pledged to participate in that effort, but it died when Senator Bennett was not returned to office. In 2013, Congressman Rob Bishop, later joined by Congressman Jason Chaffetz, began a

similar process, called the Public Land Initiative, which was described as an "open, collaborative," and "ground-up" effort.

But the PLI was designed to rely heavily on the county commissions. The Bears Ears area is in San Juan County. The Native American population of San Juan County, mostly Navajo, is 46.6% of the citizenry according to 2014 U.S. Census Bureau statistics. However, despite our deep interest and years of efforts, Native American communities and governments have never been included in any substantive discussions with respect to the Public Land Initiative process in San Juan County.

Throughout the last six years, San Juan County and the Utah congressional delegation has demonstrated that they either do not understand how to reach Native American Tribes and individuals, or they are unwilling to do so. First and foremost, contrary to the tradition usually followed in implementing the government-to-government relationship, to our knowledge neither Congressman Bishop nor Congressman Chaffetz, or their staff, ever visited the Tribal headquarters of any Tribes concerning Bears Ears.

In addition, for example, San Juan County did not announce its open houses on the Navajo radio station or send public mailers to Utah residents who collect their mail in Arizona, even though hundreds of Utah residents living on the reservation must travel to Arizona to retrieve their mail. In spite of the fact that the results of the PLI are intended to become federal law, there has been little effort to substantively engage the federally-recognized, sovereign Tribes in Utah, and no effort to engage Tribes outside of Utah with whom the United States has a trust relationship.

The unfairness of forcing Native Americans to work through San Juan County is

shown by the County's key decision-making processes. Native American Tribes and local communities attempted to engage at every stage in the process. Then, during the public comment opportunity afforded by San Juan County in 2014, the Navajo Nation and UDB were assured that the Bears Ears proposal would be included as "Alternative D" on the list of County identified alternatives. One week before the first open house, San Juan County broke this agreement and excluded Alternative D from the county list of alternatives, even though it represented the views of half of the San Juan County population.

Despite this action of not listing the Bears Ears proposal as an alternative, county residents overwhelmingly endorsed the UDB-Navajo proposal on Bears Ears, which received 64% of the total local comments of support. San Juan County's own documents show that the low-conservation, heavy-development "Alternative B" received just two comments of support--less than 1%. (See San Juan County Public Comments Nov. /Dec, 10140, attached to this Exhibit). This Alternative B was eventually endorsed by the San Juan County Commissioners as their preferred alternative in August, 2015.

Native American efforts to engage directly with Representatives Bishop and Chaffetz have been met with similar results. We attended more than two dozen meetings involving PLI with federal, state, and local officials. At the first meeting, called by Congressman Bishop, we made a full presentation, approximately an hour in length, on our four-prong proposal, which is similar in concept to this Coalition proposal. We handed out two-page summaries of our proposal along with a map of the proposed boundaries. We then made similar presentations at approximately 25 additional meetings, about half of which were attended by staff of Congressman Bishop and Chaffetz. We have received no substantive responses from the

Congressmen or their staff concerning any of these presentations. During 2013-2015, we made four trips to Washington DC and visited personally with Congressman Bishop and Chaffetz in their offices, with staff attending. Each time, we made presentations and handed out summaries of our four-pronged proposal and the map of the proposed boundaries. We have received no substantive responses from the Congressmen or their staff with respect to these meetings. Most recently, the Bears Ears Inter-tribal Coalition requested a meeting in August 2015 to discuss its proposal. There has been no substantive response.

In stark contrast to the PLI, the Administration has been responsive to our recent requests to consult on a government-to-government basis about our interests in protecting the Native values of the Bears Ears landscape. For example, the Bears Ears Inter-Tribal Coalition invited Administration officials to join Tribal members to hear Native American interests across this landscape. Leaders from each of the five tribes expressed their deep spiritual and physical connections to this place and expressed their unwavering commitment to see it preserved whether it be through a National Conservation Area or National Monument.

With these circumstances in mind, the Bears Ears Inter-Tribal Coalition is formally submitting its proposal to the President and, at the same time, to Congress through Congressmen Bishop and Chaffetz. We continue to appreciate the engagement of the Administration, and would welcome the sincere interest of the Utah delegation. If the delegation is willing to pursue our proposal through legislation, we would welcome discussions leading to that result. However, in either case, the Tribal antiquities continue to be damaged and our cultural values continue to be threatened across the Bears Ears landscape. We therefore urge prompt action on our proposal.

II. Timeline

2009

- March: President Obama signs Senator Bennett's Washington County Lands Bill. Many counties throughout Utah request inclusion in the next bill.
- March: Utah Tribal Leaders Association begins regular discussions on how best to engage in future land-use negotiations to advance Native American interests on public lands. (UTL Agenda-6-25-09, 8-6-09, 11-12-09)

2010

- February: Senator Bennett initiates land-use planning initiative in San Juan and seven other counties in Utah. An intensive and collaborative land-use negotiation process ensues that involves dozens of organizations that meet every few weeks for six months.
- May: Kenneth Maryboy invites Mark Maryboy and Gavin Noyes, Utah Program Director for Round River, to help develop a plan to represent Utah Navajo interests in the Bennett process. Mark serves as a consultant and community liaison to a small team of land planning experts and prioritizes the opinions of grassroots people, elders and the inclusion of all Tribes throughout the region.
- May: June-August: All seven Navajo Chapter Houses in Utah approve resolutions of support for Mark and other leaders to carry out ancestral mapping of lands and development of the Bears Ears proposal in San Juan County.
- June: Utah Navajo leaders initiate a 2 ½ year-long cultural mapping effort including Navajo elder interviews, data collection, and policy research, studying co-management, as well as local state, and federal policies.
- August: Utah Navajo leaders approve a draft proposal in advance of Senator Bennett's deadline. This proposal was not released or made public because Senator Bennett's time in office expired before the bill could be introduced (Bennett was defeated at his state Republican convention)
- October: Second round of elder interviews initiate to collect more detailed information about Native American cultural uses in San Juan County.

2011

- March: Utah Navajo cultural interviews are complete.
- April: The "Navajo Lands of Interest" (NLOI) pre-proposal map is widely distributed throughout Utah and in Washington DC. Leaders from all sides express strong support for Utah Navajos in advancing interests regarding their ancestral lands.

- July: UDB releases a book describing Native American interests to the public; 8,000 copies are distributed throughout Utah and in Washington DC. (Copies are available by emailing utahdinebikeyah@gmail.com) Major press events are held in Bluff and Salt Lake City and the President of the Navajo Nation weighs in with his office's support. The book helps generate significant recognition that Native Americans have a right to engage in conservation of this region, a concept with which most Utahns seem unfamiliar.

- July: Navajo Nation President Ben Shelley asks Secretary Salazar in a letter to protect Bears Ears as a National Monument because it is one of our country's "Crown Jewels."

- September: Formal land planning initiates for the Bears Ears region by the leadership of Navajo Nation Division of Natural Resources.

- October: UDB signs an MOU with the Navajo Nation to formalize development of the Bears Ears proposal.

2012

- January: Utah Dine Bikeyah Board of Directors is set and organization launches to provide guidance on proposal development, conducts regular ceremonies and holds community/ house meetings to discuss the Bears Ears project with their communities.

- February: Navajo Nation President and UDB present UDB book and NLOI map to the Utah State Legislature. Many Utah officials express support for the Native American effort to protect spiritual sites on public lands within the Bears Ears landscape.

- March-December: Navajo Nation and UDB engage San Juan County Commissioners in discussions to pursue a collaborative County-wide Joint Planning process, assuming that Congressional leaders would initiate a new planning process.

- July: Congressman Bishop begins informal meetings with governments and stakeholders. Neither Tribes nor UDB are listed as early participants.

- August: During several meetings, UDB tells San Juan County Commissioners Phil Lyman and Bruce Adams of its goal to seek protection for Bears Ears area either as a NCA through the legislative process, or as a NM through the Antiquities Act. They express a desire to participate in developing a joint legislative position spanning Native and non-Native interests.

- October: San Juan County Commissioner Phil Lyman invites UDB Board Members to his office and tells them that Native Americans "lost the war" and shouldn't be commenting on public lands issues, much like he doesn't tell the Scottish government what to do after his ancestors left Scotland. UDB carries out

its own research and leans that Native Americans have every right to engage in public land planning.

- December: The Navajo Nation and San Juan County sign a Memorandum of Agreement to undertake Joint Planning for all public lands in San Juan County. The identified purpose of Joint Planning is to create a shared vision supported by commissioners and the Navajo Nation.

2013

- January: The Navajo Nations and UDB complete Bears Ears data collection and analysis. Navajo Nation decision-makers utilize this data to make policy decisions.

- January: Navajo/San Juan County Economic Development Committee forms under Joint Planning agreement.

- February: Bishop Public Lands Initiative launches and the Navajo Nation and UDB is invited to participate. Congressman Bishop does not list the Ute Mountain Ute, San Juan Paiute, or Tribes outside of Utah as early participants. (See Letter from Congressman Bishop to Utah Dine Bikeyah, 2/15/13, launching Public Lands Initiative).

- April: UDB and the Navajo Nation spoke to the entire group at length and gave a one hour presentation on the proposal origins. We walked through the four prongs of the proposal including; NCA boundaries, wilderness proposal, regions proposed for co-management, and access needs (including firewood, herb collection, hunting, and ceremonial-use) We made a proposal like this to local, state, federal officials and the public at approximately 25 subsequent meetings. Congressmen Bishop and Chaffetz had staff at approximately half of these meetings. The Navajo Nation proposal did not result in any response from the Utah congressional delegation or substantive discussions.

- April 17th: The Navajo Nation presents its proposal to San Juan County, State of Utah officials, and Utah Congressional delegation at Monument Valley. Discussion of Bears Ears proposal lasts for over two hours. (See SJC NCA Supporting Maps 3/28/13, and Navajo Nation Press Release and UDB Press Release, 8/9/13) The Navajo Nation proposal did not result in any response from the Utah congressional delegation or substantive discussions.

- May 2013- March 2015: UDB and the Navajo Nation made a total of four trips to Washington DC. We always met with the Utah Congressmen, including Representatives Bishop, Chaffetz, and Senator Hatch. When we visited, we always delivered a two page description of the proposal and offered a large map of the Bears Ears proposal. We always discussed the four prongs of the proposal including; NCA boundaries, wilderness proposal, regions proposed for co-management, and access needs (including firewood, herb collection, hunting, and ceremonial-use) We did not receive any substantive responses.

- May: Joint Planning meetings are put on hold while San Juan County develops its internal proposal. San Juan County questions the legitimacy of the Navajo Nation proposal. (See letter from UDB to SJC on 5/21/13)

- July: Navajo Nation submits the Bears Ears proposal for Bishop's August, 2013 deadline. San Juan County does not respond to the Navajo proposal prior to this deadline and does not publicly submit a position to Congressman Bishop.

- August: Congressional leaders organize field trips including one led by UDB and hold public hearings in San Juan County. At the public hearing, San Juan County residents sling racist insults at Native American attendees. The Utah delegation does not intervene and subsequently, Native Americans stop attending public meetings in northern communities of San Juan County. (Letter from UDB to Congressman Bishop sent on 8/12/15 details this event and the negative impact it had on race relations in SJC.)

- September: Bishop's legislative deadline passes without Congressional action.

2014

- January: Commissioner Lyman selects individuals to join the San Juan County Citizen Lands Committee.

- May: Commissioner Lyman leads an armed militia on an all-terrain vehicle ride into sacred Recapture Canyon trespassing into an area closed to motorized vehicles.

- June: Joint Planning agreement between Navajo Nation and San Juan County expires and San Juan County is unresponsive to UDB letters regarding Joint Planning agreement.

- July: UDB formally asks SJC and its newly formed Citizens Lands Council to respond to the Bears Ears proposal by August 15 so that parties can understand the likelihood of creating a shared proposal, or determine if a National Monument request should be made (See UDB to SJC letter 7/9/14). San Juan County does not respond, except by phone to communicate that they will engage with the Bears Ears proposal on their own timeline once SJC's proposal is complete.

- August: Navajo Utah Commission unanimously adopts a resolution of support (Resolution NUCAUG-616-14) endorsing the permanent protection of lands in San Juan County, UT as a National Conservation Area or National Monument. Copies are provided to the UT Congressional Delegation and relevant members of the Obama Administration.

- September: UDB conducts outreach to new Navajo Nation officials and Tribes throughout southwest.

- September: Hopi Tribal Chairman Herman Honanie sends a letter of support for the permanent protection of the Bears Ears landscape to the Utah

2014 continued

Congressional Delegation.

- September: Ute Mountain Ute request renaming of proposal. UDB drops the proposal name "Utah Diné Bikéyah" and replaces it with "Bears Ears."
- September: UDB reports to Secretary Jewell on the inability of Native Americans in SJC to obtain any kind of response to its conservation proposal, even after 18 months of diligent effort. (See UDB letter to Secretary Jewell 9/19/14)
- September: Six of seven Navajo Chapter Houses in Utah adopt resolutions of support for Bears Ears
- September: Utah Congressional delegation asks San Juan County to include the Navajo Nation in its legislative proposal development process and to deliver one or more positions by the end of the year.
- October: San Juan County confirms its July agreement to include Bears Ears proposal in SJC list of alternatives for its public process.
- October: San Juan County proposes five Open Houses in Oljato, Bluff, Blanding, Monticello, and LaSal to hear local preferences for land-use alternatives. Only one meeting is scheduled in a Native community. UDB offers to convene additional meetings on reservation, provide translation skills, and create radio ads to ensure people hear about event. SJC agrees and asks UDB to partner on Open Houses. SJC also asked UDB to run the open house at the Navajo Mountain community without representation from SJC due to the travel cost, and provides UDB chairman, Willie Grayeyes, with copies of maps of alternatives.
- October: UDB delivers Bears Ears GIS layer package of the Bears Ears proposal to San Juan County. On March 4th, 2015 this same layer package is sent to Casey Snyder and Cody Stewart from Congressman Bishop and Governor Herbert's offices.
- October: UDB delivers Bears Ears GIS layer package of the Bears Ears proposal to San Juan County. On March 4th, 2015 this same layer package is sent to Casey Snyder and Cody Stewart from Congressman Bishop and Governor Herbert's offices.
- October: San Juan County excludes Bears Ears proposal from its list of land-use alternatives for its public process. UDB asks why the County has asked it to partner on Native outreach if the County is not including the Native proposal for Bears Ears.
- October: SJC adds one Open House in the Aneth community (on-reservation), but fails to run radio ads, send flyers to Chapter Houses, or even obtain the

2014 continued

mailing addresses for hundreds of San Juan County residents who retrieve their mail at PO Boxes in Arizona. Consequently, Native American turn-out was low at San Juan County Open Houses (25-35 people total).

- November: UDB organizes seven Town Hall Meetings to ensure that all Native American communities in Utah have the ability to submit comments to the PLI process. UDB conducts outreach by running radio ads and posting flyers at Chapter House. 250-350 Native community members attend discussions.

- November: All Pueblo Council of Governors unanimously adopts a resolution of support (Resolution No. 2014-17) endorsing the protection of the Greater Cedar Mesa Landscape in San Juan County, UT. Copies are provided to the UT Congressional Delegation and relevant members of the Obama Administration.

- December: Bears Ears proposal wins 64% of support from San Juan County residents during public process. Alternative B that San Juan County eventually adopts receives two comments of support, or less than 1% of total.

- December: Navajo Nation and UDB representatives go to Washington, DC and report again to the Utah congressional delegation that San Juan County is not responsive to the Native American proposal in the legislative process.

- December: UDB is told by SJC that it may no longer participate in Bishop's PLI. (See letter from UDB to SJC on 12/13/14)

- December: Bishop's informal legislative deadline passes without Congressional action.

2015

- January: San Juan County Commissioner Rebecca Benally replaces Commissioner Kenneth Maryboy as County representative for the majority Navajo district.

- January: Phil Lyman tells UDB that it has no standing in San Juan County and rejects UDB's request to participate in Citizens Lands Council. Lyman says he represents Utah Navajos as Chairman of the San Juan County Commission and challenges UDB's ability to represent Navajo people. UDB explains that its MOU with the Navajo Nation and resolutions of support from Utah Chapter Houses gives it the authority to represent local land-use desires. UDB sends a letter to Congressmen Bishop and Chaffetz asking to work.
- January: Navajo Nation seeks guidance from Congressman Bishop on how to engage in the PLI. No substantive response is received. (See NN letter on 1/30/15, also see UDB handout to SJC on 2/3/15)

- February: The entire Utah Congressional delegation sends a letter to stakeholders and Tribes announcing the upcoming release of a map and legislative language for

2015 continued

PLI on March 27. Areas of "collaborative agreement" are listed as priority designations. (See letter sent on 2/4/15)

- February: Hualapai Tribal Council unanimously adopts a resolution of support (Resolution No. 06-2015) endorsing the Bears Ears Conservation Proposal. Copies are provided to the UT Congressional Delegation and relevant members of the Obama Administration.

- February: Navajo Nation President Ben Shelley asks Utah Governor Herbert to support Tribes in protecting the Bears Ears landscape. Governor responds that the Nation needs to get its proposal to Congressman Bishop and Chaffetz "as soon as possible." (See UDB letter on 2/9/15)

- February: UDB informs Congressmen Bishop and Chaffetz that it has tried and failed to re-engage with San Juan County and its Citizens Lands Council and wants to be included in PLI. UDB requests a meeting directly with Congressional staff to discuss critical issues that need to be detailed prior to the March 27 release of draft legislative language. (See UDB letter on 2/9/15) No substantive response is received from the Congressional offices, but assurances are given by phone that UDB and Native American interests will be included.

- February: Due to Congressional pressure, San Juan County invites the Navajo Nation, Ute Mountain Ute, and UDB to try to negotiate a shared position through a series of future meetings. A new legislative deadline is set for March 27. (PLI letter from Utah Congressional delegation 2/4/15)

- February: White Mesa Community of the Ute Mountain Ute joins UDB and appoints Mary Jane Yazzie as a Board Member to include Ute perspective in Bears Ears proposal.

- March: At the urging of San Juan County Commissioners, and without consulting Tribes or informing UDB, the Utah State Legislature passes HB 393[1], which undermines major portions of the Bears Ears proposal by designating it as an "Energy Zone." This bill aims to streamline development and declares grazing, energy and mineral development to be the "highest and best use" of public lands.

[1] Legislative language can be found at: http://le.utah.gov/~2015/bills/static/HB0393.html. Utah Code section 63J-8-105.8 lists "grazing agricultural commodity zones." According to the state, grazing is the highest priority in these zones, and the historic level of livestock grazing in these zones has been unreasonably, arbitrarily, and unlawfully restricted by federal land managers. In San Juan County, the "Grand Gulch Region Grazing Zone," (63J-8-105.8(2)(dd)), the "Cedar Mesa East Region Grazing Zone, (63J-8-105.8(2)(ee)), the "Dark Canyon/Hammond Canyon Region Grazing Zone, (63J-8-105.8(2)(ii)), and the "Chippean/Indian Creek Regional Grazing Zone," (63J-8-105.8(2)(jj), are included.

2015 continued

- March: Navajo Nation Council unanimously adopts a resolution of support endorsing the designation of Bears Ears as a National Conservation Area or National Monument. Copies are provided to the UT Congressional Delegation and relevant members of the Obama Administration.

- UDB travels to Washington D.C. and details negotiation process options with Congressman Chaffetz staff by drawing on maps with markers.

- UDB presents a revised Bears Ears wilderness proposal to Congressman Chaffetz staff and San Juan County during negotiation meeting that better accommodates for firewood collection.

- April: Bishop imposed legislative deadline passes without Congressional action.

- March, April, & May: Four negotiation meetings are held between San Juan County, Tribes and stakeholder groups. These meetings have strong representation from Native American leaders and residents, but meetings are poorly run. For example agendas are never prepared, a neutral facilitator is not provided (SJC always leads), and parties are not asked to bring anything new to the table (See UDB letter to Congressman Bishop/ Chaffetz 7/8/15)

- April: Commissioner Lyman convicted of illegal trespass in his 2014 ATV ride. (See SL Tribune 5/1/15)

- April-May: The Wall Street Journal, New York Times, Salt Lake Tribune and others feature the Bears Ears proposal and the PLI.

- May: UDB and supporting organizations send letter to Representative Bishop and Chaffetz indicating what they will support/ oppose in a legislative proposal.

- May: The Bears Ears website surpasses its goal of 10,000 petition signatures of support only four weeks after launching.

- May: Congressman Chaffetz staff inform the Navajo Nation that legislation will be introduced in July, 2015.

- June: All Pueblo Council of Governors sends a letter to the UT Congressional Delegation and the Obama Administration clarifying that their earlier resolution of support (Resolution No. 2014-17) endorsing the protection of the Greater Cedar Mesa Landscape should be considered support for the Bears Ears Conservation Proposal.

- June: Negotiations between the SJC Citizen Lands Council, UDB, and the Navajo Nation fail to produce any results. Furthermore, at the final meeting, neither UDB nor the Tribes are invited to attend. They are told that the SJC Commissioners did

2015 continued

not require any further information to make its final decision. (Letter from UDB to Chaffetz 7/9/15)

- June: SJC Citizens Lands Council votes on a final proposal to SJC Commissioners without input or participation from Ute, Navajo, San Juan Paiute Tribes or UDB.

- July: Congressman Chaffetz' office assures UDB Board Members that Native American interests will be heard by Congressman Bishop prior to release of Draft language. Chaffetz agrees to "consider" including Tribes outside of San Juan County. UDB asks know the degree to which Chaffetz will support Bears Ears by early Sept. (Letter from UDB to Chaffetz 7/9/15)

- July: Chairman Chappoose of the Uintah and Ouray Ute Indian Reservation Tribal Business Committee sends a letter of support for the Bears Ears conservation proposal. Copies are provided to the UT Congressional Delegation and relevant members of the Obama Administration.

- July: Bears Ears Inter-Tribal Coalition formalizes its leadership to advance the Bears Ears Proposal and meets with federal officials from Washington DC at Bears Ears.

- July: With the addition of the Hopi, Zuni, Ute Mountain Ute, and Ute Indian Tribes; 25 tribal governments now endorse designating Bears Ears as either a National Conservation Area or National Monument through official letters and resolutions of support.

- July: Bishop imposed legislative deadline passes without Congressional action.

- July: UDB organizes a Bears Ears panel discussion with Ute Mountain Ute, Congressman Chaffetz and Governor Herbert's PLI representatives at Utah's Annual Native American Summit in Provo, Utah. Sixty people attend. At this conference, Navajo Nation President Russell Begaye also asks conference attendees to support Tribes in protecting Bears Ears. No substantive follow-up discussions occur with Utah officials after this conference.

- August: Chairman Heart of the Ute Mountain Ute Tribe sends a letter of support for the Bears Ears Conservation Initiative. Copies are provided to the UT Congressional Delegation and relevant members of the Obama Administration.

- August: San Juan County Commissioners unanimously adopt Citizens Lands Council recommendations.

- August: Five Tribes of the Bears Ears Inter-tribal Coalition requests a formal meeting with Congressman Chaffetz and Bishop and inclusion prior to the release of draft language. (See letter sent on 8/5/15)

2015 continued

- August: Congressman Chaffetz, Utah officials, and San Juan County Commissioners meet with the Navajo Nation President Begaye and suggests that Native American interests are well represented by San Juan County officials. The President points to the tally of local comments received in 2014 and asks how this could be the case. Commissioner Benally offers no explanation.

- August: UDB meets with Congressman Chaffetz's staff and informs them that the opportunity to negotiate with UDB has ended and that Tribes are now in charge. Staff agrees to reach out to the Bears Ears Inter-tribal Coalition to set up a meeting.

- August: On August, 5, 2005, Alfred Lomahquahu and Eric Descheenie, Co-Chairs of the Bears Ears Inter-Tribal Coalition, write Congressmen Bishop and Chaffetz a three-page letter. The letter details the current situation and requests a meeting in order to discuss the Tribe's proposal and to "work with you towards meaningful conservation legislation on an accelerated time line." This does result in any substantive discussions. (See letter sent on 8/5/15)

LANDS BILL PUBLIC COMMENTS (Nov./Dec. 2014) 12-8-14

Comments	Alternative or Proposal
33	Lands Council Alternative A
2	Lands Council Alternative B
93	Lands Council Alternative C (some proposed additional protected areas)
24	San Juan Alliance Proposal (includes some who noted Alt. A as second choice)
300	Dine Bikeyah Proposal - includes petition of 246 signatures (21 with comments; 194 SJC residents, 52 likely non-SJC residents w/out-of• county/state mailing addresses); 97 comment letters+ 7 likely non-SJC resident comments + 2 unsigned/unaddressed comments; and 9 verbal comment transcripts
	Greater Canyonlands NCA (The Nature Conservancy)
	Red Rock Wilderness
	All Share and Get Along
	No preference until details of legislative narrative worked out
	Any proposal should be as limited as possible and no road closures
10	No Bill [continue current management; or Alt. A if pushed (2); no road closures]
467	Total (may include some duplicate comments from same commenter)
	Three resolutions supporting Dine Bikeyah efforts (Navajo Utah Commission, Navajo Mountain Chapter, and Oljato Chapter)
5	Additional non-resident comments supporting various alternatives or proposal

EXHIBIT 2

The National Congress of American Indians Resolution #EC-15-002

EXECUTIVE COMMITTEE

PRESIDENT
Brian Cladoosby
Swinomish Tribe

FIRST VICE-PRESIDENT
Randy Noka
Narragansett Tribe

RECORDING SECRETARY
Aaron Payment
Sault Ste. Marie Tribe of Chippewa Indians of Michigan

TREASURER
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Reno Sparks Indian Colony

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Native Village of Tanacross

EASTERN OKLAHOMA
S. Joe Crittenden
Cherokee Nation

GREAT PLAINS
Leander McDonald
Spirit Lake Nation

MIDWEST
Roger Rader
Pokagon band of Potawatomi

NORTHEAST
Lance Gumbs
Shinnecock Indian Nation

NORTHWEST
Fawn Sharp
Quinault Indian Nation

PACIFIC
Rosemary Morillo
Soboba Band of Luiseno Indians

ROCKY MOUNTAIN
Ivan Posey
Shoshone Tribe

SOUTHEAST
Ron Richardson
Haliwa-Saponi Indian Tribe

SOUTHERN PLAINS
Stephen Smith
Kiowa Tribe

SOUTHWEST
Manuel Heart
Ute Mountain Ute Tribe

WESTERN
Len George
Fallon Paiute Shoshone Tribe

EXECUTIVE DIRECTOR
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NATIONAL CONGRESS OF AMERICAN INDIANS

The National Congress of American Indians
Resolution #EC-15-002

TITLE: Supporting the Presidential Proclamation of the Bears Ears National Monument, Including Collaborative Management Between Tribal Nations and the Federal Agencies

WHEREAS, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

WHEREAS, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

WHEREAS, since time immemorial, the Bears Ears and surrounding land in Southeastern Utah have been a homeland and place of spiritual and cultural significance to tribal people. This living landscape continues to nurture, strengthen, and sustain tribal people, and tribal people remain dependent on these public lands to maintain our traditional livelihoods and cultural practices, such as hunting, gathering, and ceremonial uses.

WHEREAS, for the last century, tribal nations and tribal members have experienced removal from these ancestral homelands, and afterward, limited access to the land. Tribal nations and tribal members have also witnessed the looting of graves and sacred sites, and threats from more modern land uses such as off-road vehicle use and energy development.

WHEREAS, tribal leaders from Hopi, Navajo, Ute Mountain Ute, Zuni and Uintah & Ouray Ute formed the Bears Ears Inter-Tribal Coalition with the goal of protecting and preserving the homeland area of the Bears Ears region.

WHEREAS, the Bears Ears Inter-Tribal Coalition's chosen outcome is for President Obama to use his powers under the Antiquities Act to declare the Bears Ears National Monument, and secure permanent protection for these lands.

WHEREAS, the Bears Ears Inter-Tribal Coalition requests that President Obama proclaim the 1.9 million Bears Ears National Monument to honor the worldviews of our ancestors and Tribes today.

WHEREAS, the Bears Ears Inter-Tribal Coalition proposal asks that the new monument be managed under a path-breaking, comprehensive, and entirely workable regime of true Federal-Tribal Collaborative Management.

WHEREAS, the Bears Ears National Monument has every opportunity to serve as the shining example of the trust, the government-to-government relationship, and innovative, cutting-edge land management.

NOW THEREFORE BE IT RESOLVED, that NCAI does hereby urge President Obama to use his powers under the Antiquities Act to declare the Bears Ears National Monument and, by doing so, provide permanent protection for these lands.

BE IT FURTHER RESOLVED, that NCAI does hereby support the Navajo, Hopi, Zuni, Uintah & Ouray Ute, and Ute Mountain Tribes that comprise the Bears Ears Inter-Tribal Coalition and their shared goal of permanently protecting the Bears Ears region.

BE IT FURTHER RESOLVED, that NCAI does hereby support the Bears Ears National Monument being meaningfully co-managed between the Bears Ears Inter-Tribal Coalition Tribes and federal management agencies for the purpose of honoring the trust relationship, protecting tribal sacred homelands, and preserving traditional and cultural ways of life.

BE IT FINALLY RESOLVED, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted by the Executive Committee of the National Congress of American Indians, held via a poll of Board Members, September 20, 2015 in Washington, D.C. with a quorum present.

Brian Cladoosby, President

ATTEST:

Aaron Payment, Recording Secretary



National Trust *for*
Historic Preservation
Save the past. Enrich the future.

SENATE ENERGY AND NATURAL RESOURCES COMMITTEE
FIELD HEARING: UTAH PUBLIC LANDS INITIATIVE
SAN JUAN COUNTY HIGH SCHOOL, BLANDING, UTAH
JULY 27, 2016
TESTIMONY OF STEPHANIE K. MEEKS
PRESIDENT AND CEO
NATIONAL TRUST FOR HISTORIC PRESERVATION

Senator Lee and members of the Committee, I appreciate the opportunity to present the National Trust for Historic Preservation's perspectives on the recently introduced Utah Public Lands Initiative Act ("PLI") and the importance of protecting the Bears Ears cultural landscape. My name is Stephanie K. Meeks, and I am the President and CEO of the National Trust.

The National Trust for Historic Preservation is a privately-funded charitable, educational and nonprofit organization chartered by Congress in 1949 in order to "facilitate public participation in historic preservation" and to further the purposes of federal historic preservation laws. The intent of Congress was for the National Trust "to mobilize and coordinate public interest, participation and resources in the preservation and interpretation of sites and buildings." With headquarters in Washington, D.C., nine field offices, 27 historic sites, more than 800,000 members and supporters and partner organizations in 50 states, territories, and the District of Columbia, the National Trust works to save America's historic places and advocates for historic preservation as a fundamental value in programs and policies at all levels of government.

We appreciate the sustained efforts of House Natural Resources Committee Chairman Rob Bishop, Congressman Jason Chaffetz, and members of this Committee to develop a legislative solution to address the long-term conservation of nationally significant lands in Utah. This is a difficult and challenging problem of public policy – ongoing for generations – that deserves an expedient and successful resolution.

We recognize that the existing legislation includes certain improvements over the previous discussion draft, but we are disappointed that H.R. 5780, the PLI bill, as introduced on July 14, does not meet our hope for legislation that would generate the broad-based bipartisan support necessary to be signed into law by the President.

Accordingly, we join the broad-based request that the President utilize his authority under the Antiquities Act to protect the nationally significant cultural and archaeological resources of the Bears Ears area this year. In addition, the National Trust opposes H.R. 5781, the "PLI Partner Act,"which would limit the President's authority to proclaim national monuments in certain areas of Utah.

National Trust Participation

Bears Ears is one of the most significant cultural landscapes in the United States and a landscape that is home to more than 100,000 cultural and archaeological sites, many of which are sacred to tribal communities across the region. The 1.9 million acres of public lands south and east of Canyonlands National Park include Ice Age hunting camps, cliff dwellings, prehistoric villages, and petroglyph and pictograph panels that tell the diverse stories of 12,000 years of human habitation.

Since 2007, the National Trust has been working on legislative proposals with the Utah delegation and other stakeholders to protect this important place. We have also been actively engaged in cultural resource protection issues in Southeast Utah – working to ensure compliance with federal laws designed to avoid impacts to historic and cultural properties and supporting thoughtful planning for and interpretation of cultural resources.

In 2013, we developed and presented maps and narratives describing the National Trust's priorities for resource designations in Southeast Utah to local, state, and national partners, including the offices of Congressmen Bishop and Chaffetz. Since we named this area one of our National Treasures in 2013, we have committed our expertise and resources to seeking a preservation-friendly solution to land use conflicts in this area. Earlier this year, reflecting our long-standing commitment to the legislative process, we submitted extensive comments on the "Discussion Draft" of the PLI.

Like many Americans, I have had the pleasure of visiting and marveling at the extraordinary cultural resources of the Bears Ears region. This landscape and its resources certainly rival nearby nationally protected areas like Canyon of the Ancients National Monument (established by President Clinton in 2000), Mesa Verde National Park (established by Congress in 1906), Chimney Rock National Monument (established by President Obama in 2012) and Chaco Culture National Historical Park.

It is worth noting that the remarkable resources of Chaco Canyon were first protected by President Theodore Roosevelt as a national monument in 1907. Nearby Hovenweep National Monument was established by President Harding in 1923.

Viability of the Legislative Process

Due to our commitment to securing permanent protection for these nationally significant cultural resources, the National Trust has been hopeful that the long-awaited PLI legislation would be crafted in such a way as to gather the broad bipartisan support necessary to be adopted by Congress and signed into law by the President this year. Unfortunately, the legislation as introduced on July 14 is unlikely to generate such support and in fact has generated significant opposition by many of our conservation colleagues.

We appreciate the proposed establishment of a Bears Ears National Conservation Area, however we are concerned that neither the proposed size (857,000 acres) nor management provisions are sufficient to protect the nationally significant resources of

this area, including such archaeologically valuable lands within the White Canyon drainages and the Allen, Chippean, and Dry Wash Canyons.

We appreciate that there have been multiple improvements from the discussion draft, including, as in section 108, permitting the acquisition of lands within wilderness areas from willing sellers, the removal of language designating certain areas for recreational shooting and removing designation of specific areas for recreational shooting and certain changes restricting the ability of managers to determine grazing levels.

However, we are disappointed that many of the concerns outlined in our February 12 letter on the discussion draft were not addressed, including but not limited to the following:

- Expansion of energy planning areas. We are particularly concerned with section 1103, which would create a new program whereby the State of Utah would be granted energy permitting powers now exercised by the federal government. Our reading of this precedent setting proposal is that it would remove the federal protections currently afforded cultural resources, including the National Historic Preservation Act, Native American Graves Protection and Repatriation Act (NAGPRA) and other federal laws.
- We are also concerned that the existing and potential use of Master Leasing Plans, which have proven to be helpful collaborative tools to resolve long-standing conflicts over land use would be precluded by the legislation.
- We are concerned that the bill would permit grazing in certain areas where current restrictions protect archaeological and cultural resources and that other areas could be made available to grazing, including in Grand Gulch, Slickhorn, and other canyons on Cedar Mesa.

Additionally, the National Trust agrees with a number of our conservation colleagues who have expressed serious concerns with the sweeping and controversial changes to other long-standing federal laws protecting the nation's natural and cultural resources.

Given the numerous and significant changes necessary to redraft the bill and achieve a bi-partisan compromise, as well as the limited number of legislative days remaining prior to Congress adjourning this fall, we are skeptical that comprehensive legislation can be achieved this year.

Addressing the Urgent Need for Protection

Continued reports of looting, vandalism, and other damaging disturbances of archaeological sites lends particular urgency to the permanent protection of the Bears Ears landscape as soon as possible. In just one of over 50 recent incidents of looting, a 2009 Bureau of Land Management and FBI sting operation resulted in indictments of

over 24 people for multiple violations of trafficking an estimated 40,000 stolen artifacts, government property, and Native American cultural items from the Southeast Utah area.[1]

Given the time sensitive and significant threat to priceless cultural resources and the absence of a realistic opportunity to enact bipartisan legislation during this Congress, the National Trust supports the protection of the Bears Ears landscape by the President as a National Monument before the end of this year.

We appreciate the substantial time and resources dedicated to the pursuit of a legislative solution to this critical preservation issue by local and national stakeholders, including local governments, our partners in the conservation and preservation community and the staffs of the House and Senate committees and offices of Congressmen Bishop and Chaffetz. We look forward to continuing our collaborative work to advance preservation solutions with members of the Committee, Congressmen Bishop and Chaffetz, and other stakeholders.

[1] Center for American Progress; "Bears Ears Cultural Area: The Most Vulnerable U.S. Site for Looting, Vandalism, and Grave Robbing"; https://www.americanprogress.org/issues/green/news/2016/06/13/139344/bears-ears-cultural-area-the-most-vulnerable-u-s-site-for-looting-vandalism-and-grave-robbing/; June 13, 2016 (accessed July 20, 2016)

Statement by
United States Department of Agriculture
Senate Committee on Energy and Natural Resources
Concerning the Designation of Monuments Pursuant to the Authority Provided by the Antiquities Act
July 27, 2016

Thank you for the opportunity to submit a statement for the record from the United States Department of Agriculture (USDA). As an Agency under USDA, the Forest Service is responsible for managing eleven national monuments: Admiralty Island (Alaska); Misty Fiords (Alaska); Mount St. Helens National Volcanic Monument (Washington); Newberry Crater National Volcanic Monument (Oregon); Chimney Rock National Monument (Colorado); Browns Canyon National Monument (Colorado); San Gabriel Mountains National Monument (California); Berryessa Snow Mountain National Monument (California); Sand to Snow National Monument (California); Giant Sequoia National Monument (California), and; Santa Rosa and San Jacinto National Monument (California). Four monuments (Sand to Snow, Santa Rosa and San Jacinto, Berryessa Snow Mountain, and Browns Canyon) are jointly managed with the Department of the Interior.

Monuments can be established legislatively or through Presidential proclamation consistent with the Antiquities Act. The authority granted to the President by Congress through the Antiquities Act is one of the most critical and important tools a president can use to protect special lands. When the Antiquities Act has been used by this Administration, the potential impact on current and future generations has been the key consideration, and the Administration consistently strives to take into account the interests of a wide range of stakeholders to both protect America's public lands and provide for economic development in a manner that is consistent with applicable laws and sound public policy.

Monuments administered by the Forest Service represent a range of remarkable places and resources each recognized by Congress or Presidential proclamation for their special cultural, historical and scientific values, including spectacular ancestral Puebloan structures, some of the world's largest trees, dramatic geology, and remarkable biological diversity some found nowhere else. Designation as national monuments permanently protects areas significant to our Nation's rich history and natural heritage and ensures that the special objects contained within these lands remain a benefit for all Americans.

The Forest Service manages these special areas consistent with their establishment legislation or presidential direction, pursuant to their applicable legal authorities and available funding, and in accordance with management plans developed through public input and consultation with tribal, State, and local governments. Monument boundaries proclaimed by the President are confined to the smallest area compatible with the proper care and management of the cultural, historical and scientific objects to be protected.

Designations are generally subject to valid existing rights and the Secretary may authorize activities or uses consistent with the care and management of the historical, cultural, natural and scientific resources identified in the monument. In previous designations, these have included grazing, motorized and mechanized vehicle use on roads and trails designated for such use, access by members of Indian tribes for traditional cultural and customary uses, emergency response activities, and a variety of recreational uses.

The monuments managed by the Forest Service, whether designated through legislative or administrative action, build on established public support from a broad cross-section of stakeholders generally including local businesses, conservation, tribal, academic and cultural preservation communities. The monuments managed by the Forest Service provide additional opportunities for the Forest Service and local communities to work together to increase access and enhance outdoor opportunities. Monument designations contribute to the economy. According to a National Fish and Wildlife Foundation report issued in 2011, outdoor recreation, nature conservation, and historic preservation activities generate more than 9 million jobs and $1 trillion in economic activity each year. Recreation on Forest Service-managed lands contribute $13 billion to local economies annually.

The President is committed to continuing the responsible use of the Antiquities Act to protect the nation's unique places. Thank you for allowing this opportunity to present the views of the Administration.

STATEMENT FOR THE RECORD
UNITED STATES DEPARTMENT OF THE INTERIOR
BEFORE THE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
CONCERNING THE DESIGNATION OF MONUMENTS PURSUANT TO THE AUTHORITY PROVIDED BY THE ANTIQUITIES ACT
July 27, 2016

Thank you for the opportunity to discuss the designation of monuments by the President pursuant to the authority provided by the Antiquities Act. Enacted over 100 years ago, the Antiquities Act has been used by presidents of both parties as an instrument to preserve and protect critical natural, historical, and scientific resources on Federal lands for future generations.

The Antiquities Act was the first U.S. law to provide general legal protection of cultural and natural resources of historic or scientific interest on Federal lands. After a generation-long effort, President Theodore Roosevelt signed the Antiquities Act on June 8, 1906. The Antiquities Act set an important precedent by asserting a broad public interest in the preservation of these resources on Federal lands. Designations under the Act apply only to Federal lands; they place no restrictions on private property and have not affected valid existing rights.

After signing it into law, President Roosevelt used the Antiquities Act eighteen times to establish national monuments. Those first monuments included what are now known as Grand Canyon National Park, Petrified Forest National Park, Chaco Culture National Historical Park, Lassen Volcanic National Park, Tumacacori National Historical Park, and Olympic National Park.

Since President Roosevelt, sixteen U.S. presidents have used the Act over 150 times to establish or expand national monuments. Congress may also pass legislation designating national monuments. Currently, the National Park Service manages 83 national monuments. The Bureau of Land Management administers 25 national monuments. And the U.S. Fish and Wildlife Service administers 6 national monuments.

The Antiquities Act has a proven track record of protecting significant Federal lands and the unique cultural and natural resources they possess. These monuments have become universally revered symbols of America's beauty and legacy. Though some national monuments have been established amidst controversy, who among us today would dam the Grand Canyon, turn Muir Woods over to development, or deny the historic significance of Harriet Tubman's struggle against slavery? These sites are cherished landscapes that help to define the American spirit. They speak eloquently to the wisdom of retaining the Antiquities Act in its current form.

The Administration has previously noted that, like his predecessors, President Obama's designations have provided permanent protections for unique historic and cultural sites, incredible natural resources and wildlife habitat. These include, among others, Waco Mammoth National Monument in Texas, Stonewall National Monument in New York, San Juan Islands National Monument in Washington, and Río Grande del Norte National Monument in New Mexico. President Obama's use of the Antiquities Act has been supported by a wide range of

stakeholders, including state and local governments, tribes, business groups, elected officials, community leaders, regional utilities, as well as faith leaders, sportsmen, historians, conservationists, recreation enthusiasts, and others.

While the Antiquities Act authorizes the president to establish a national monument at the president's sole discretion, this Administration has invited public comment at meetings in the local communities. Administration officials, including from the Department, have attended many community meetings across the nation, and have heard from stakeholders interested in protecting the places that they care about. These officials have also heard from stakeholders concerned with the potential impacts of any such designation.

The Administration consistently strives to take into account the interests of this wide range of stakeholders to both protect America's public lands and provide for economic development in a manner that is consistent with applicable laws and sound public policy. Beyond their contributions to clean air, clean water, wildlife habitat, our nation's cultural heritage and scientific understanding, the economic impacts of federal lands are substantial. National parks, national wildlife refuges, national monuments and other public lands managed by the Department hosted an estimated 443 million recreational visits in 2015, and these visits alone supported $45 billion in economic output and about 396,000 jobs nationwide. (*U.S. Department of the Interior's Economic Report for Fiscal Year 2015.*)

The authority granted to the President by Congress through the Antiquities Act is one of the most important tools a president has to improve our country. It is a tool that this President has not used lightly or invoked without serious consideration of the impacts on current and future generations.

The President is committed to continuing the responsible use of the Antiquities Act to protect the nation's special places. These places can help tell a more complete story of America, protect antiquities at risk of looting or development, create local jobs and boost small businesses should they be recognized on the national stage, and provide experiences for future generations.

Thank you for the opportunity to present the views of the Administration.



Utah Diné Bikéyah
- a non-profit supporting Native Tribes working together to ***Protect Bears Ears*** -

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July 23rd, 2016

Honorable Mike Lee
United States Senator
361A Russell Senate Office Bldg
Washington, D.C. 20510

Dear Senator Lee,

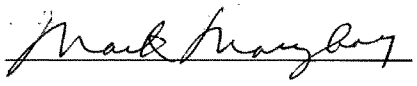
Thank you for your invitation to testify at the public hearing regarding the Public Lands Initiative (PLI) and the Antiquities Act being held on the 27th of July. I regret to inform you that I must decline to attend this meeting due to its one-sided nature.

These meetings have repeatedly proven uncomfortable for Native leaders to attend because of the levels of disrespect and disregard for traditional viewpoints by non-Native county residents. The intimidation and misinformation tactics currently being used by Blanding residents against Native American supporters of a Bears Ears National Monument is astounding as was on display with the "booing" of the Navajo Nation President by Commissioner Benally and her supporters. I have expressed concerns to Congressmen Bishop and Chaffetz in the past, such as following the Public Lands Initiative hearing on August 9th, 2013 when Native Americans were insulted with racially charged insults and false accusations.

I request that if racism rears its ugly head again next week that your office step up and admonish those making disparaging remarks or non-substantiated accusations. My letter from 2013 is attached below along with a San Juan County discrimination report that was completed last year. San Juan County has a race relations problem that requires non-local leaders to address. All three local Commissioners are complicit in perpetuating the second-class status of Native Americans in San Juan County. For example; Commissioner Lyman organized an illegal ATV ride into a sacred canyon despite UDB's efforts to stop him, Commissioner Benally votes against her own people's right to a fair vote and aligns herself with Commissioner Lyman on 99% of all votes. Last week, Commissioner Adams offensively claimed that Mormons were the first people to ever settle San Juan County. Additionally, fake flyers and disturbing false comments have been made on Utah Diné Bikéyah's Facebook page that directly reference my name. As a result, I have no assurance that the meeting on July 27th will provide a respectful forum for me or other supporters of a Bears Ears National Monument to be heard on why we want this area protected.

Finally, the Bears Ears Inter-Tribal Coalition (BEITC) is the most appropriate body to engage in discussions on the Public Lands Initiative. As sovereign nations that share ancestral ties to Bears Ears and they are the leaders requesting the Obama administration to designate it as a National Monument.

Sincerely,



Mark Maryboy

Board Member

Utah Diné Bikéyah

Utah Farm Bureau Federation
9865 South State Street
Sandy, Utah 84070
Tel: 801.233.3040

July 16, 2016

The Honorable Sally Jewell
Secretary of the Interior
1849 C Street, NW
Washington, D.C. 20240

Dear Secretary Jewell:

The Utah Farm Bureau Federation represents nearly 29,000 member families scattered across our state's diverse and beautiful landscape. Our members are located in all 29 counties living in both urban and rural communities. Farm Bureau is the largest farm and ranch organization in Utah as well as in the United States. Farm Bureau's comments are generally related to misuse of the Antiquities Act, but more specifically today, to express concerns with the potential designation of a Bears Ears National Monument.

The Act for the Preservation of American Antiquities, or the Antiquities Act, was passed by Congress in 1906 to address a particular parcel of public land. It was intended to allow Presidential "protection of objects of historic and scientific interest." The Act states that the areas to be set aside as monuments "are to be confined to the smallest area compatible with the proper care and management of the objects to be protected."

Mega-Monuments like the 1.9 million acre Grand Staircase-Escalante National Monument seem to ignore what Congress originally intended. A 1.9 million acre Bears Ears National Monument circumvents what Congress intended too!.

The American Farm Bureau Federation, representing nearly 6 million members across the nation, is concerned that the original intent of protecting "the smallest portion of land needed" is not being considered. Today's politicized and polarized process sidesteps needed evaluation important in determining the real impacts of these Presidential designations on communities, economies, jobs and the critical resources our nation depends on.

Utahns remember well when in 1996, without consultation with our Governor, our Congressional Delegation or our citizens, then President Bill Clinton stood in Arizona on the rim of the Grand Canyon and designated the 1.9 million acre Grand Staircase-Escalante National Monument. Many in Southern Utah and across the state of Utah continue to believe this action, which dramatically changed the Congressional multiple

use mandate and is still hurting rural communities and businesses, was an abuse of federal power.
Bears Ears
Page 2

Pointing out that Utah has 67 percent of the lands within its borders owned and controlled by the national government, Utah Farm Bureau members are concerned that there is a potential for abuse of the original, limited, intent of the Antiquities Act.

Delegates to the November 2015 annual convention of the Utah Farm Bureau Federation adopted policy addressing concerns and making recommendation related to the Antiquities Act and the resulting national monuments:

Utah Farm Bureau policy calls for:

1) Amending the Antiquities Act to require legislative approval from any state where a national monument is established.
2) A Congressional review and evaluation of any national monuments including a NEPA (National Environmental Policy Act) assessment.
3) Require continuation of multiple use management principles within national monuments including livestock grazing, hunting, fishing, recreation, energy and mining.
4) Protect the sovereign water rights of the state of Utah and honor privately held and perfected livestock water rights.
5) Withdrawal of lands or change in boundaries of monuments to facilitate extraction and utilization of our abundant natural resources including oil, gas and coal.
6) Timely completion of agency Resource Management Plans (RPMs) within national monuments that includes grazing to address the historic, cultural and economic contributions in the surrounding area.

It is no secret that America's rural communities, and more specifically those across Southern Utah, suffer from lackluster economic growth and opportunity. Many of these problems can be attributed to a growing Washington D.C. regulatory philosophy, federal overreach and onerous land management policies. Some continue to argue national monuments like the Grand Staircase-Escalante National Monument are an economic boon. The locals certainly appreciate all the dollars tourists bring to the local economy, but sustainable rural economies cannot exist on seasonal service industry jobs alone.

Those who come to rural Utah for the magnificent beauty and recreational opportunities generally get outfitted somewhere upstate before making their way to Utah's backcountry. Locals have a saying about tourists; "They come in a pair of khaki shorts and with a $50 bill in their pocket and don't change either!" Right or wrong, the reality is, recreation and tourism will not build and sustain rural economies, provide living wages and sustainable opportunities for local residents.

Congress in the Taylor Grazing Act and the Multiple Use and Sustained Yield Act mandated that the resources being managed by the federal agencies are to be managed for the benefit of all Americans. Judicious use and development of our natural

resources like coal, oil, natural gas and mining meets America's most basic needs and provides jobs and economic opportunity. Harvesting the annually renewing forage

through livestock grazing provides affordable meat protein to Utahns and Americans, helps build sustainable rural communities, and reduces the potential for catastrophic wild fires.

Since the pioneers first settled Utah, the natural resources of our state dictated that we are primarily an animal agriculture state. The heritage of ranching families grazing sheep and cattle was based on community needs and on the lands they held in common. It's hard to overstate the very real disadvantage Utah has to other American states in determining our future and the use of the natural resources within our border with the federal overlords. There are 45 million acres of rangeland suitable for livestock grazing in Utah. Of that, 33 million acres or 75 percent is controlled by the BLM and Forest Service. The Director of the BLM manages more land in Utah than the Governor elected by the people of Utah. Our future in Southern Utah, in most of Utah and across the American West is being dictated by a distant, disconnected central government. And that distance is not just based on geography.

This growing divide and mounting differences are certainly reflected in the increasing tensions and obviously is the catalyst for state and regional movements like Utah's "Transfer of the Federal Lands."

Using the Antiquities Act to impose the will of the central government while ignoring state and local elected officials and thwarting the will of the people, will only fan the flames of distrust and disassociation in Utah and in the West. Utah's Governor, Utah's Congressional Delegation, Utah's Legislature, local county commissioners and recent polls showing nearly 60 percent of Utahns oppose a Bears Ears designation underscores the depth of our opposition.

Agriculture is a fundamental piece of Utah's economic puzzle. It is the economic foundation of our rural communities. According to the 2016 Economic Report to the Governor, food and agriculture contribute more than $17 billion to Utah's economy, or more than 14 percent of the total Utah Gross Domestic Product (GDP). Livestock production drives our agriculture economy. The cattle sector, a major player in San Juan County and Southern Utah, contributes about 40 percent of the state agricultural total. Food and agriculture provides more than 80,000 jobs statewide and is the engine for more than $2.7 billion in wages.

We all understand and appreciate the uniqueness of the Bears Ears area and the beauty of Southern Utah. But it is equally important to understand and appreciate the unique character of the ranching families of San Juan County and Southern Utah who have for generations cared for the land and harvested the renewable forage producing

beef and lamb for American dinner tables. These ranching families are the first environmentalists who love the land respected the unique character of their area before

there was a Forest Service or BLM, and long before today's debate of a Bears Ears National Monument.

Harvesting the renewable forage provides many more benefits than just beef or lamb production. Instead of dead and dying grasses, forage is utilized, allowing the plant ecosystem to thrive. Livestock grazing, like good gardening, allows new plant growth that is preferred by wildlife. Lastly, livestock grazing and harvesting the tinder dry grasses dramatically reduces the chances of catastrophic wildfires.

Investments by ranchers, sportsmen and the state of Utah in partnerships like the Grazing Improvement Program (GIP) are available and are aimed at improving rangelands statewide, including private, state and federal. These efforts not only improve forage for livestock, they help control the spread of noxious weeds and monocultures of invasive trees beneficial to the entire ecosystem. Proactive range management improves watersheds that are critical to precious water supplies in this high desert region.

Many do not recognize San Juan County has only eight percent of the lands within its borders privately owned. Or that neighboring Kane County has 11 percent and Garfield County a paltry five percent private ownership. These counties with such limited tax base struggle to fund local government and provide opportunities for private businesses to establish and thrive. Family livestock ranching has historically been the foundation of rural economic opportunity and the tax base of these federal land dominated counties. Under the Taylor Grazing Act, grazing rights and access to public lands for livestock grazing was established based on local private land ownership and water rights. Uncertainty is having a dramatic impact on these generations old agri-businesses and the designation of the Bears Ears National Monument would exacerbate the situation.

These ranching businesses that harvest the annually renewing forage provide jobs, health care, roads, public schools and services like emergency services, search and rescue and hospitals – important to locals and to visiting tourists.

Uncertainty and ramped up federal regulatory actions that suspend or terminate livestock grazing Animal Unit Months (AUMs) on federal lands are displacing or ending historic family ranching in Southern Utah. These are ranching families heavily dependent on federal grazing permits. In the three counties that would surround a Bears Ears National Monument, the economic impacts could be dramatic.

In Utah, we have seen more than 70 percent of historic grazing AUMs cut or suspended through federal agency management actions. The establishment of a new national monument provides one more tool to the federal agencies to reduce livestock grazing. Let's consider what the impact of displacing or terminating even a single average sized family cattle ranching operation would be:
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Utah is a cow-calf cattle production state with cattle and calves contributing more than one-third of the state's agricultural commodity sales. According to the Salina Livestock Auction, feeder cattle arriving from across Southern Utah for auction generally averaged between 450 - 550 pounds and were valued at about $1.75 per pound or $875 per head. An average cow-calf ranching operation with 500 mother cows and a 95-percent calf survival rate adds more than $415,000 in direct cattle sales to the local economy.

Based on a conservative economic multiplier effect, as feeder cattle sales dollars are spent in the local economy, that single family ranching business is the catalyst for more than $750,000 in rural Southeast Utah!

If you take a regional look at the number of mother cattle, in Southeast Utah's San Juan (14,300), Garfield (17,700) and Kane (8,200) Counties, there were 40,200 mother cows that spent time grazing on federally managed lands in 2015. Those family cattle ranches generated more than $33 million in direct feeder cattle sales and contributed in excess of $50 million to the rural communities they support year round. And this is a contribution that renews itself every year with the new calf crop.

Livestock ranching families spend their money right at home in rural Utah. Dollars from feeder calf sales turn over in Southern Utah creating jobs, paying taxes, supporting public schools and hospitals and creating sustainable opportunities for a new generation. They don't take their money with them after a short vacation in Southern Utah, or put their money in some foreign bank account – they put their money to work in rural Utah!

Sincerely,

Randy N. Parker
Chief Executive Officer

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