

## **National Monument Reduction Policy Analysis: Beyond Bears Ears**

### **I. Topic Summary**

Established in December 2016 by President Obama, Bears Ears National Monument encompassed 1.35 million acres of significant cultural and natural resources in San Juan County, located in the red rock landscape of southwestern Utah. In December 2017, President Trump reduced the Monument by 83%. The rationale for this reduction was that the Monument's size did not adhere to the Antiquities Act's creed to designate "the smallest area compatible with the proper care and management" of the objects within the monument (Trump 2017a).

In response to controversy surrounding the reduction, the Trump administration was careful to note that it is a "myth" that no president had previously shrunken a national monument (Department of the Interior 2017). In fact, presidents have reduced the sizes of 16 national monuments previous to Trump's December proclamation (National Park Service 2019). Yet, there is much controversy around this action, and opponents to the reduction have filed lawsuits in federal court. This paper will examine the reduction of Bears Ears National Monument, comparing it to previous monument reductions that have taken place in American history. How do the situations surrounding previous reductions differ from Bears Ears, and how are they similar?

## II. Relevant Policy Background

### **Bears Ears National Monument**

The history of Bears Ears National Monument began much before the Monument was established in 2016. For many tribes local to the region, their interest in protecting these lands dates to their ancestors. Evidence of long-standing and bountiful Native history is prevalent throughout the landscape, with plentiful petroglyphs, pictographs, cliff dwellings, pit houses, and other infrastructure that together comprise more than 100,000 archeological and cultural sites, which are sacred to many Native American tribes (Bears Ears Inter-Tribal Coalition, n.d.).

The genesis of the protection of the 2016 National Monument, began in 2010, with the Public Lands Initiative (PLI). This initiative entailed a public involvement process in each county of Utah, in an attempt to build consensus around public lands management (San Juan County, n.d.). Although initially tribal and conservation groups enthusiastically participated, negative experiences caused many of these groups to abandon the process (Peterson 2016; Utah Diné Bikéyah n.d.-a). During the PLI efforts, the nonprofit Utah Diné Bikéyah and the Bears Ears Inter-Tribal Coalition (Hopi, Nacao, Ute Mountain Ute, Ute, and Zuni tribes) both formed to help guide and administer tribal involvement in protections of the Bears Ears area.

Although the resulting PLI never came to a vote, UDB and the Inter-Tribal Coalition continued the work that had begun with the PLI process, building a 2013 proposal into their final Bears Ears National Monument proposal, which they submitted to President Obama in October 2015 (Krakoff 2018). In December 2016, President Obama established Bears Ears National

Monument, from which the proposal had been adapted, with a reduction in size, from 1.9 million acres in the proposal to 1.35 million acres protected; and a reduction in tribal co-management of the Monument, relegated to a consultant role. See Appendix B for a map of the area.

In 2017, in response to an April 2017 Executive Order by President Trump, Secretary of Interior Ryan Zinke completed two reports with recommendations for national monument reductions or alterations, giving special attention to Bears Ears National Monument. These reports ultimately resulted in Trump's reduction of the Monument from 1.35 million acres to two smaller areas totaling just under 230,000 acres.

### **Previous National Monument Reductions**

National monuments have been reduced by previous presidents 16 times. For a summary of all national monument reductions, see the table in the Appendix. The first instance of this occurred in 1911, when Petrified Forest National Monument was reduced from 95 to 40 square miles. The Monument was established in 1906 at a larger size than necessary, and the subsequent 1911 reduction aligned with the original intent at founding -- to reduce the size once silicified wood deposits had been more precisely located within the Monument boundary (Wilson 1912). After being designated a national park in 1962 and several iterations enlarging the park, including a 2004 expansion that doubled the park's size, today Petrified Forest National Park encompasses 230 square miles.

Taft also undertook a more drastic reduction in 1912, when he reduced the size of Navajo National Monument from 160 square miles to 360 acres, a reduction of over 99%. Again, the reduction represents a lack of research and understanding in the initial Monument boundary. The

initial proposed boundary was quite rushed due to rampant looting of archeological sites, again with the intent of refining the border once more was known (Rothman 1991).

Mount Olympus was also reduced in 1912, by less than one percent of its original size, then again by almost 50% in 1915. The larger reduction was motivated by the nation's need for lumber during World War I, and was counterbalanced by subsequent enlargements which restored the (newly designated) Olympic National Park to its original, 1912-era size (Meyer 2017). The smaller reductions of Mount Olympus (one in 1912 and one in 1929), remedied accidental inclusion of private homesteads (Meyer 2017).

Such boundary oversights comprise a fair amount of reductions, as with the case of White Sands National Monument's reduction in 1938, and the reduction of Craters of the Moon in 1941 (National Park Service 2019). A major reduction that occurred around this time was a 49% reduction of Santa Rosa Island National Monument in 1945, when President Truman reallocated 4700 acres for military purposes during World War II.

In the '50s and '60s, Colorado, Bandelier, and Hovenweep National Monuments were all subject to presidential proclamations that simultaneously reduced and expanded their boundaries in similar amounts. These adjustments were intended to address areas erroneously included, or those deemed "unnecessary" for the Monument's purpose, while generally maintaining the Monument's size (Eisenhower 1956, Eisenhower 1959; Kennedy 1963). In 1962, President Kennedy issued a proclamation that reduced Natural Bridges National Monument by 350 acres, while simultaneously adding over 5,000 acres. The expansion aimed to include additional

archeological sites, as well as providing more space for infrastructure such as visitor centers and administrative buildings (Kennedy 1962).

Glacier Bay National Monument experienced a similar less than one percent reduction of 25,000 acres out of a total 2.6 million acres in 1955, with the proclamation issued by President Eisenhower describing parts of the Monument as no longer suitable or necessary for “national-monument purposes” and better suited for national defense and agricultural uses (Eisenhower 1955). The Monument was eventually redesignated as Glacier Bay National Park, which today encapsulates 3.28 million acres. Another minimal reduction, Wupatki National Monument was reduced to allow for the construction of a diversion dam to provide irrigation of the Navajo Indian Reservation. The reduction was only 53 acres out of 36,000 acres, or less than one percent (Roosevelt 1941). Other small reductions include Arches National Monument, reduced by 2% in 1960, and Black Canyon of the Gunnison, reduced by 3.6% in 1960.

Grand Staircase-Escalante National Monument was reduced by about 40% on the same day as the Bears Ears reduction. President Trump explained the action as taking power from “very distant bureaucrats” in the federal government (Eilperin 2019), and his proclamation states that “many of the objects [in the original boundary] are not unique to the monument” (Trump 2017b). Sources have connected the newly drawn boundaries to the energy industry, citing the presence of coal in the area and the administration’s emphasis on energy exploration (Eilperin 2019).

### III. Stakeholder Analysis

When evaluating national monument reduction in the light of historical precedent, several

key stakeholders and decision-makers emerge:

**Scientists, geologists, and other professional natural resource managers/experts.** In some instances, such as with Petrified Forest and Navajo, national monument borders were redrawn as a result of an initial lack of understanding about the protected resource and its location. In the case of Hovenweep, areas were actually erroneously included upon the Monument's establishment, only to later be removed. As technology and professional ability improves, Monument borders become more precise upon their initial designation.

**Local residents.** Upon its establishment, Grand Staircase-Escalante was heavily opposed by locals who feared that the new designation would limit access to their beloved public lands (Nijhuis 2017). Today, residents take pride in the national monument, with studies showing positive effects on local economies due to tourism (Nijhuis 2017; Blumm and Jamin 2018).

**Department of Defense and other military interests.** Several monument reductions were motivated by military needs, including Santa Rosa Island (used by War Department for a WWII Air Force Base), Glacier Bay (used as a military airfield) and Mount Olympus (harvest timber for WWI).

**Tribes and other Indigenous peoples.** Wupatki National Monument was reduced by 53 acres to provide for a dam that would “facilitate the irrigation of lands on the Navajo Indian Reservation” (Roosevelt 1941). Otherwise, the establishment, management, and boundary-setting of national monuments has largely occurred with minimal involvement from, if not outright hostility towards, American Indian people (Krakoff 2018; Rothman 1991). The policy that authorizes Presidents to establish National Monuments, the Antiquities Act of 1906,

was largely created in response to looting of archeological sites. The goal of the Antiquities Act was to protect Indigenous artifacts from pot-hunters, not so that they could be preserved for Indigenous peoples, per se, but rather to provide for the scientific collection, categorization, and display of such curiosities in white colonial establishments such as the American Museum of Natural History (Rothman 1991).

**The President(s).** Historically, presidents often issue reductions in response to errors, such as boundary mapping issues and administrative or scientific errors. It is rare and perhaps unprecedented for a president to call for reductions to further a political ideology, as appears to be the case with the Trump reduction. The 2017 reductions demonstrate a conscious aim to reduce federal government's role in land-use planning, consistent with the administration's larger agenda (Blumm and Jamin 2018).

**Resource industries, such as agriculture, mining.** Arches was reduced for grazing purposes, Glacier Bay for agriculture, and Mount Olympus for lumber needed for WWII efforts. The areas of Bears Ears National Monument that have been removed by Trump's 2017 action include uranium and vanadium deposits that "could provide valuable energy and mineral resources in the future," according to a letter written by an executive at a uranium company (Eilperin 2017). The letter was addressed to the Department of the Interior in an attempt to encourage the Trump administration to reduce the Monument's size, both to allow for future uranium exploration, as well as facilitating access to the nation's sole uranium mine, which is located adjacent to the Monument's original boundaries (Eilperin 2017). Although President

Trump’s motivations for reducing the National Monument cannot be known, it is clear that resource extraction corporations can benefit heavily from reductions of this type.

**Conservationists.** Conservationists reliably call for increased natural resource protections. Oftentimes, the most desired format for these protections are through designation as a National Park or National Monument, which provide some of the highest levels of protection against resource extraction and habitat destruction. Historically, there has been little involvement from conservation groups in monument reduction. This may be due to the minimal nature of previous reductions, or it may be due to the less prevalent role of these groups historically (Meyer 2017).

#### IV. Policy Alternatives and Associated Outcomes

To determine the future of Bears Ears National Monument, three potential policy alternatives are described below and evaluated in regards to the evaluative criteria of *efficiency*, *efficacy*, and *equity*. The term “*efficiency*” refers to the amount of effort that must be expended for the given alternative. “*Efficacy*” rates the alternative’s effectiveness in balancing protection of significant objects with the nation’s need for access to other resources offered by such lands (recreation, minerals, etc). “*Equity*” evaluates the extent to which the alternative values all of the nation’s residents. See Table 1 for a summary of each alternative’s rating by these criteria.

**Alternative 1 - No action.** This alternative entails maintaining the status quo, which currently includes several lawsuits by stakeholders to restore the Monument’s original borders (Penn-Roco, n.d.). Although the lawsuits will require some time and resources, the effort required in this alternative is minimal, resulting in a “good” *efficiency* rating. This alternative is



“poor” in the categories of both *efficacy*, for omitting important archeological sites like Farm House, Fry Canyon, and Tower Ruins (McBrayer and Roberts-Cady 2018), and *equity*, for failing to value the input and cultural values of Indigenous tribes, for whom the area is sacred and has long been under-protected (Krakoff 2018).

**Alternative 2 - Convene the Bears Ears Commission and undertake a public involvement process.** This alternative includes the convening of the Bears Ears Commission, as described in the original National Monument proposal by the Bears Ears Inter-Tribal Coalition (Utah Diné Bikéyah, n.d.-b). This Commission would be comprised of one representative from each of the five Coalition tribes, and one representative from the US Forest Service, BLM, and National Park Service, and was intended to co-manage the National Monument upon its designation. In Alternative 2, the Commission would evaluate the original Tribal proposal, the Monument as established by Obama, and the Monument as modified by Trump, and make a recommendation for new boundaries. They would also lead a public involvement process to get comments and input regarding the public’s preferred Monument size and inclusion area. The Commission would be paid for their work. Alternative 2 does not involve immediate action upon the Monument’s boundaries, but opens up the possibility of such alterations at a later date.

This alternative is rated as “poor” in the category of *efficiency*, as the review and public involvement process will involve time and resources beyond those of Alternative 1. *Efficacy* is rated as “good” for the potential resource-balancing benefits that could be derived from gathering and considering the input of tribes and the public. *Equity* is “good” for involving Tribal representatives, though this alternative does require significant work on the part of tribe

members, placing additional burden on the historically marginalized community.

**Alternative 3 - Restore the borders of the National Monument.** In Alternative 3, the National Monument is restored to the original size and shape as designated by President Obama. This alternative is “neutral” in *efficiency* -- there may be some administrative overhead to restore National Monument protections to previously excluded areas. Alternative 3 strikes a better balance between protected areas and the public’s need for access to the area in question; *efficacy* is “good.” *Equity* is “very good,” as this alternative acknowledges the importance of the input, time, and cultural values of Native American tribes, who invested significant energy into researching and developing their initial Monument proposal, to which the original Monument largely adhered.

Figure 1: Table depicting the rating of three alternatives by their evaluative criteria

	Alternative 1	Alternative 2	Alternative 3
<i>Efficiency</i>	Good	Poor	Neutral
<i>Efficacy</i>	Poor	Good	Good
<i>Equity</i>	Poor	Good	Very Good

## V. Recommendations

Given the evaluative ratings of the three described policy alternatives, Alternative 3 is the strongest option. This alternative is also well-situated in the historical context of previous national monument reductions. The relevant considerations based on reduction precedent are:

- **National monuments are rarely reduced by more than 4% without a mitigating enlargement.** Bandelier, Hovenweep, and Natural Bridges are examples of this type of action.

- **Many national monument reductions were spurred by inaccurate mapping and other lacking technology.** With today’s resources, such errors are rare. This is related to the recent lack of monument reductions. Namely, the reduction of a national monument has not been undertaken since 1963, likely due to less frequent erroneous inclusions and similar errors.

- **Consult with Tribes.** Historically, national monument creation (and other federal land management processes) have been lacking in their consultation with tribal governments and tribal interests (Krakoff 2018). Bears Ears was unique in its centering of tribal values and input, and the deletion of that process adds further damage to existing affronts (Krakoff 2018).

- **Recent federal land management policies may limit the legality of national monument reduction without congressional action.** Presidential power to reduce national monuments under the Antiquities Act was not explicitly granted, but has been assumed in the past (Squillace et al. 2017). Many experts posit that the 1976 Federal Land Policy and Management Act (FLPMA) removed presidential authority “to revoke or modify the boundaries of national monuments” (Blumm and Jamin 2018).

By addressing the preceding historical themes, and achieving the highest marks in regards to the evaluative criteria, Alternative 3 is the recommended course of action.

# Appendix A.

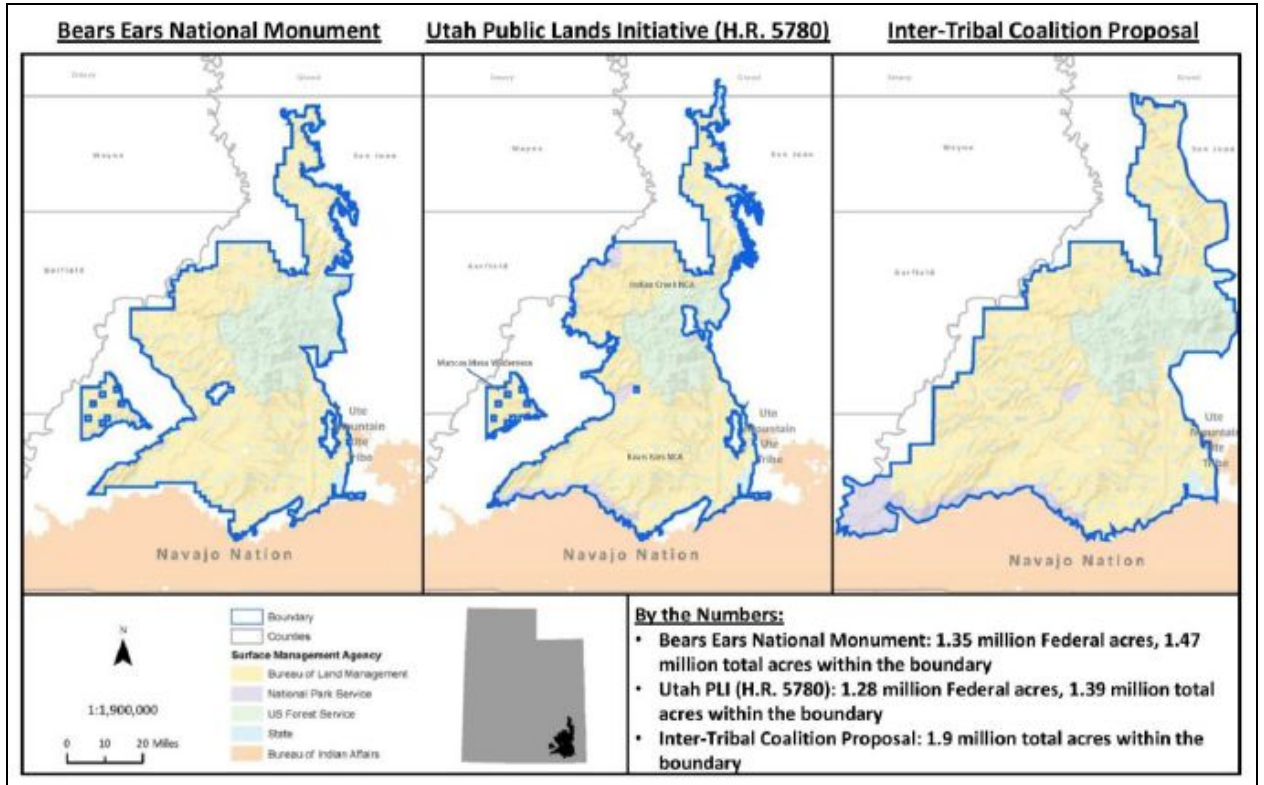
Table: National Monument reductions

Monument, year established	State	Year reduced	Percent of reduction	Reason for reduction
Petrified Forest, 1906	AZ	1911	61% *later enlarged 3x and redesignated NP	Reduced after geologist studied and more precisely located petrified wood deposits
Natural Bridges, 1908	UT	1962	11.7% *simultaneously enlarged by 190%	“No longer contains features of archeological value”
Mount Olympus, 1909	WA	1912 1915 1929	0.03% 49% (for WWI timber harvest) 0.2% *later redesignated Olympic NP and expanded since then	Correct border errors Lumber for WWI efforts Correct border errors
Navajo, 1909	AZ	1912	99.6%	Reduced to more precise size after rushing designation
Colorado, 1911	CO	1959	1.5% *simultaneously enlarged by 0.8%	Area inclusion “not necessary”
Bandelier, 1916	NM	1963	12.8% *simultaneously enlarged by 9%	Area had “limited archeological values”
Hovenweep, 1923	CO	1956	10% *simultaneously enlarged, eventually grew to 784 acres	Correct erroneous inclusion and balance with new inclusion
Craters of the Moon, 1924	ID	1941	*not calculated in proclamation	State highway construction
Wupatki, 1924	AZ	1941	0.14%	Construction of diversion dam for irrigation to Navajo Indian Reservation
Glacier Bay, 1925	AK	1955 ?	0.01% *Reduced by 19k, later enlarged by 550k	National defense and agriculture; “no longer necessary”
Arches, 1929	UT	1960	2%	Grazing; “no known... value”

Grand Canyon "II", 1932	AZ	1940	26% *later merged w other NM and redesignated GCNP	"Not necessary"
Great Sand Dunes, 1932	CO	1956	*change not calculated in proclamation, simultaneously reduced and enlarged	"No longer necessary"
White Sands, 1933	NM	1938	*not calculated	Construction of highway
Black Canyon of the Gunnison, 1933	CO	1960	3.6%	No longer necessary due to land exchanges
Santa Rosa Island, 1939	FL	1945	49%	Used "by the War Dept for military purposes"
Grand Staircase Escalante, 1996	UT	2017	41%	"Prioritize public access;" boundary should be limited to "smallest area compatible with protection"
Bears Ears, 2016	UT	2017	83%	Boundary should be limited to "smallest area compatible with protection"
<p><i>Source:</i> "Antiquities Act 1906-2006, Monuments List." National Park Service. NPS Archeology Program. 2019. <a href="https://www.nps.gov/archeology/sites/antiquities/monumentslist.htm">https://www.nps.gov/archeology/sites/antiquities/monumentslist.htm</a>.</p> <p><i>Additional sources:</i> Presidential Proclamations (see Bibliography).</p>				

# Appendix B.

Figure: Bears Ears National Monument Comparison Map, 2016



Source: (Bureau of Land Management 2016)

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7