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Executive Order for Review of National Monuments: Background and Data

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Summary

The Antiquities Act of 1906 (54 U.S.C. §§320301-320303) authorizes the President to proclaim national monuments on federal lands that contain "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest." Monument proclamations typically seek to provide protections to federal lands and resources. The President is to reserve "the smallest area compatible with the proper care and management of the objects to be protected." The act does not further specify the process to be used by Presidents in proclaiming monuments.

From 1906 to date, Presidents have established 157 monuments and have also enlarged, diminished, or otherwise modified previously proclaimed monuments through a total of 259 proclamations. Presidential establishment and modification of national monuments has sometimes been contentious, and litigation and legislation have been pursued. Criticism has centered on the size of the areas and types of resources protected; effect of monument designations on land uses; inclusion of nonfederal lands within monument boundaries; and extent of public consultation. Monument advocates believe the President needs authority to act promptly to protect valuable resources. They assert that the public has supported and courts have upheld presidential designations and that many initially controversial designations have come to be supported.

In 2017, the Trump Administration reviewed certain national monuments proclaimed by previous Presidents. The effort began on April 26, 2017, with an executive order requiring the Secretary of the Interior to review national monuments established or expanded by Presidents since 1996. The order required review of national monuments where the size at establishment or after expansion exceeded 100,000 acres or where the Secretary determined that the action was taken "without adequate public outreach and coordination with relevant stakeholders." The Antiquities Act does not specifically require public outreach and coordination in monument designations. The review was to determine if the establishment or expansion of post-1996 monuments conformed to a policy set out in the executive order and to develop any recommendation for presidential actions, legislative proposals, or other actions to carry out the policy. The executive order called for interim and final reports on the monuments under review, within specified time periods.

The Department of the Interior (DOI) reviewed a total of 27 monuments, one based on the adequacy of consultation and the others based on their size. During the review, the Administration received 2,839,046 comments from the public and visited several monument areas to receive public input.

On August 24, 2017, the Secretary submitted to the President a final report on all 27 monuments reviewed. The report, marked "draft," was made public by the news media. It contained recommendations for 10 of the 27 monuments, with between one and six recommendations per monument. The types of recommendations varied. They included amending monument proclamations for specified purposes, changing monument boundaries, agency revision of monument management plans, and seeking authority from Congress for tribal comanagement of cultural areas. The report also contained broader recommendations, including changing the monument designation process, establishing new monuments, and seeking congressional clarification of the limits on executive authority under the Antiquities Act and the intent of Congress regarding land uses of monument areas with other protective designations.

Congress continues to face a variety of national monument issues. Congress has broad authority to establish, amend, or abolish national monuments and has done so on numerous occasions, including amending and redesignating monuments proclaimed by Presidents. Congress also oversees presidential exercise of authority to proclaim monuments and has considered measures to alter this authority.

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Introduction

The Antiquities Act of 1906 (54 U.S.C. §§320301-320303) authorizes the President to proclaim national monuments on federal lands that contain "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest." Monument proclamations typically seek to provide protections to federal lands and resources. The President is to reserve "the smallest area compatible with the proper care and management of the objects to be protected." The act does not further specify the process to be used by Presidents in proclaiming monuments. From 1906 to the date of this report, Presidents have established 157 monuments and have enlarged, diminished, or otherwise modified previously proclaimed monuments.

In 2017, the Trump Administration engaged in a review of certain national monuments proclaimed by Presidents under the Antiquities Act since 1996. Presidential establishment and modification of national monuments has sometimes been contentious, and litigation and legislation have been pursued. Criticism has centered on the size of the areas and the types of resources protected; the effect of monument designations on land uses; the inclusion of nonfederal lands within monument boundaries; and the lack of requirements for public participation, congressional and state approval, and environmental reviews in the Antiquities Act, among other issues. Monument advocates believe the President needs authority to act promptly to protect valuable resources. They assert that the public has supported and courts have upheld presidential designations and that many initially controversial designations have come to be widely supported.[1]

Congress continues to face a variety of issues related to national monuments. Whether to establish, amend, or abolish national monuments is of current interest. Congress has broad authority to take these actions, and has created national monuments on federal lands and has increased and decreased monument sizes on numerous occasions.[2] In establishing and amending national monuments, questions for Congress include the optimal size of the areas to be protected and the extent to which various land uses and activities will be allowed, barred, or restricted. In the past, Congress, but not the President, has abolished some monuments and converted others to different protective designations, such as national parks. Whether the President has authority to abolish national monuments is debated and has not been tested in courts.[3] Congress also oversees presidential exercise of authority to proclaim monuments and has considered measures to alter this authority.

Controversy over presidential monument designations is one component of a broader debate over federal land ownership and management. Discontent over federal land management has sometimes led to conflict, as in the 2016 takeover of the Malheur National Wildlife Refuge in Oregon. A central issue in this debate is the extent to which the federal government should dispose of, retain, or acquire lands. Some stakeholders seek disposal to foster state and local ownership and control over federal lands and resources, especially in the West, where federal lands are concentrated. Advocates of federal land retention and acquisition point to benefits of federal ownership, including protection of resources and public access for recreation. Another

[1] For an overview of issues for Congress related to national monument designation, see CRS Report R41330, *National Monuments and the Antiquities Act*, by Carol Hardy Vincent.

[2] For information on congressional actions on national monuments, including to establish, redesignate, and abolish monuments, see the website of the National Park Service at https://www.nps.gov/archeology/sites/antiquities/MonumentsList.htm.

[3] For a summary of presidential authority, as well as congressional authority with regard to national monuments, see CRS Report R44687, *Antiquities Act: Scope of Authority for Modification of National Monuments*, by Alexandra M. Wyatt.

focus is the condition of federal lands and infrastructure. Debates also encompass the extent to which federal lands should be developed and/or open to recreation and whether they should be managed primarily to produce local or national benefits.

Executive Review of Monuments

Overview of Executive Order

On April 26, 2017, President Trump issued an executive order requiring the Secretary of the Interior to review national monuments established or expanded by Presidents since 1996.[4] The order required review of national monuments where the size at establishment or after expansion exceeded 100,000 acres or where the Secretary determined that the action was taken "without adequate public outreach and coordination with relevant stakeholders." With regard to monument size, the Antiquities Act requires the President to reserve "the smallest area compatible with the proper care and management of the objects to be protected," as noted. The act does not specifically require public outreach and coordination in monument designations.

The executive order set out a policy with regard to monument designation, including that designations are made "in accordance with the requirements and original objectives" of the Antiquities Act and "appropriately balance the protection of landmarks, structures, and objects against the appropriate use of Federal lands and the effects on surrounding lands and communities." The review was to determine if the establishment or expansion of post-1996 monuments conformed to the policy in the executive order and to develop any recommendation for presidential actions, legislative proposals, or other actions to carry out the policy.

Factors for the Interior Secretary to evaluate in his review were specified in the executive order. They included

- the requirements and objectives of the Antiquities Act, including that designations be confined to "the smallest area compatible with the proper care and management of the objects to be protected";
- whether designated lands are "appropriately classified" as historic landmarks, historic and prehistoric structures, or other objects of historic or scientific interest;
- the effect of monument designation on uses of federal and nonfederal lands inside and outside of the monument boundaries;
- concerns of affected state, tribal, and local governments;
- availability of federal resources to manage designated areas; and
- other factors determined by the Secretary.

The executive order required the Secretary to provide an interim report to the President, within 45 days of the executive order's issuance, on Bears Ears National Monument in Utah and other monuments the Secretary determined appropriate. A final report on the secretarial review of monuments was due within 120 days of the issuance of the executive order—August 24, 2017.

[4] Executive Order 13792, "Review of Designations Under the Antiquities Act," 82 *Federal Register* 20429, April 26, 2017, at https://www.govinfo.gov/content/pkg/FR-2017-05-01/pdf/2017-08908.pdf. For a chronology of actions on the executive order, beginning with its issuance on April 26, 2017, see **Appendix**.

These reports were to include recommendations for presidential actions, legislative proposals, or other actions, as noted.

Most of the post-1996 monuments are managed by agencies within the Department of the Interior (DOI), but some are managed by other agencies (e.g., the Forest Service, in the Department of Agriculture), as shown in **Table 1**. The executive order called for the Interior Secretary to consult and coordinate with heads of other federal departments; state governors; and other state, local, and tribal officials.

Since 1996, Presidents Clinton, George W. Bush, and Obama have issued 64 monument-related proclamations. Of these, 54 proclamations established monuments (about one-third of all presidentially proclaimed monuments) and 8 proclamations expanded monuments. The remaining two proclamations had other purposes.[5] The total area of the designations and expansions is approximately 774.1 million acres, or about 92% of all monument acreage proclaimed since enactment of the Antiquities Act, as shown in **Table 3**. Most of this acreage—762.6 million (98.5%)—is in marine areas designated or expanded by Presidents Bush and Obama, with the remaining 11.5 million acres (1.5%) in terrestrial areas.

Of the monuments established and expanded since 1996, it appears that Presidents have established or expanded 26 national monuments exceeding 100,000 acres. These monuments are in 10 states and 4 marine areas.

Monument Review Process

In a May 5, 2017, press release, DOI identified 27 national monuments that would be reviewed under the President's executive order[6] (see **Table 1**). One of the 27 monuments, Katahdin Woods and Waters National Monument, was reviewed based on the adequacy of public outreach and coordination with stakeholders in establishing the monument. The other 26 monuments were reviewed because the size at establishment or after expansion exceeded 100,000 acres. Five of the 27 monuments are marine based, and the Secretary of Commerce was to take the lead in reviewing these monuments. Twenty-two of the 27 monuments are land based, and the Secretary of the Interior led their review.

On monuments under review, the Administration sought public comment from May 11, 2017, through July 10, 2017. A total of 2,839,046 comments were received.[7] In summarizing the comments, the Interior Secretary stated that comments "were overwhelmingly in favor of maintaining existing monuments."[8] According to the Secretary, commenters favored monument designations for their economic benefits from increased tourism and to prevent the sale of federal land. By contrast, other commenters supported abolishing or modifying monument designations to allow for a broader array of activities on the lands, among other reasons. The Secretary also

[5] The other purposes were boundary affirmation in one case, and renaming and amending in the second case, as discussed below in the section entitled "Recommendations in Historical Context."

[6] Department of the Interior (DOI), "Interior Department Releases List of Monuments Under Review, Announces First-Ever Formal Public Comment Period for Antiquities Act Monuments," press release, May 5, 2017, at https://www.doi.gov/pressreleases/interior-department-releases-list-monuments-under-review-announces-first-ever-formal.

[7] This figure was derived from the regulations website of the federal government at https://www.regulations.gov/document?D=DOI-2017-0002-0001, accessed on October 3, 2017. To review comments submitted, see this site.

[8] See Department of the Interior, *Report Summary by U.S. Secretary of the Interior Ryan Zinke*, at https://www.doi.gov/sites/doi.gov/files/uploads/monument-report-summary.pdf.

held meetings at several monuments in different states to receive input from stakeholders, including elected officials and interest groups.

On June 10, 2017, the Secretary of the Interior issued an interim report focused only on Bears Ears National Monument.[9] In the interim report, the Secretary stated that the designation of Bears Ears National Monument "does not fully conform with the policies" set out in the executive order.[10] According to the Secretary, the monument size was not the "smallest area compatible" with care of the objects requiring protection. The Secretary further asserted that some areas within the monument have other congressional or administrative designations, making "unnecessary" their protection under the Antiquities Act; some monument lands would be better managed as other types of designations, such as national recreation areas; some management provisions are too restrictive; and tribes do not have an "adequate role" in managing the monument. The Secretary made several interim recommendations, such as revising the monument boundary. However, he recommended that DOI conclude the full review of monuments before making more specific recommendations for Bears Ears. The final report contained more extensive recommendations on Bears Ears, and these recommendations are discussed below (under "Recommendations in Final Report") and shown in **Table 2**.

Before the issuance of the final report, the Secretary of the Interior concluded the review of six monuments: Craters of the Moon, Hanford Reach, Upper Missouri River Breaks, Grand Canyon-Parashant, Canyons of the Ancients, and Sand to Snow. In press releases issued between July 13, 2017, and August 16, 2017, the Secretary stated that no changes were being recommended to these areas.[11]

On August 24, 2017, the Secretary of the Interior sent to the President a final report on monuments reviewed, which included recommendations. The document was not publicly released. Instead, the Administration provided to the public a two-page summary of the report.[12] A version of the Secretary's full report, marked "Draft Deliberative—Not for Distribution," subsequently became available to the public through the media.[13]

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[9] As noted, the executive order required an interim report on Bears Ears National Monument within 45 days of the issuance of the executive order. Bears Ears has been among the recent monument designations that have been controversial. See Secretary of the Interior, Memorandum to the President, *Interim Report Pursuant to Executive Order 13792*, June 10, 2017, at https://www.doi.gov/sites/doi.gov/files/uploads/interim_report_eo_13792.pdf. A press release on the interim report is on the DOI website at https://www.doi.gov/pressreleases/secretary-zinke-submits-45-day-interim-report-bears-ears-national-monument-and-extends. Hereinafter cited as *Interim Report*.

[10] *Interim Report*, p. 5.

[11] Links to the press releases announcing the end of the reviews for these six monuments are as follows: Craters of the Moon and Hanford Reach at https://www.doi.gov/pressreleases/secretary-zinke-announces-recommendation-idahos-craters-moon-and-washingtons-hanford; Upper Missouri River Breaks at https://www.doi.gov/pressreleases/secretary-zinke-recommends-no-modifications-upper-missouri-river-breaks-national; Grand Canyon-Parashant at https://www.doi.gov/pressreleases/secretary-zinke-recommends-no-modifications-grand-canyon-parashant-national-monument; Canyons of the Ancients at https://www.doi.gov/pressreleases/monument-review-secretary-zinke-recommends-no-modifications-canyons-ancients; and Sand to Snow at https://www.doi.gov/pressreleases/secretary-zinke-announces-no-changes-sand-snow-national-monument-california.

[12] Department of the Interior, *Report Summary by U.S. Secretary of the Interior Ryan Zinke*, at https://www.doi.gov/sites/doi.gov/files/uploads/monument-report-summary.pdf.

[13] The discussion in this CRS report is based on the version of the DOI final report that was released to the public by the press. In addition to being identified as "Draft Deliberative—Not for Distribution," the released version contains some portions that are difficult to read due to the quality of the copy. Thus, it is not possible to be certain of the authoritativeness of the document and the full details of its content. As an example of a news source that published the final report, see Juliet Eilperin, "Shrink at Least 4 National Monuments and Modify a Half-Dozen Others, Zinke Tells Trump," *Washington Post*, September 17, 2017, at https://www.washingtonpost.com/national/health-science/shrink-at-

Recommendations in Final Report

In the final report, Interior Secretary Ryan Zinke stated that each of the reviewed monuments is unique, and that some monuments are currently supported strongly by the local communities. However, some monument designations remain controversial for a variety of reasons, according to the Secretary. Among the controversial aspects of proclaimed monuments, the final report cited the size of the areas, types of objects protected, effect on land uses, extent of public access, sufficiency of public consultation, adequacy of protection of resources, inclusion of private lands within monument boundaries, and "overlap" with other federal land designations.

Recommendations for 10 Monuments

In the final report to the President, the Interior Secretary made individual recommendations for 10 of the 27 monuments that were reviewed.[14] (See **Table 2**.) According to the Secretary, these recommendations were made with the concurrence of the Secretary of Agriculture and the Secretary of Commerce.[15] Some Members and stakeholders supported the recommendations, whereas other lawmakers and stakeholders opposed them.[16]

The recommendations included amending monument proclamations regarding protection and management of resources, and, for some areas, revising monument boundaries.[17] The Secretary of the Interior called for these changes to be made "through the use of appropriate authority, including lawful exercise of the President's discretion granted by the [Antiquities] Act."[18] Congress has authority to modify management of lands within, and boundaries of, monuments established by presidential proclamation under the Antiquities Act. The Secretary did not fully detail the changes to be made to monument proclamations or identify the precise locations and sizes of the boundary alterations. Rather, the final report provided that "[r]ecommendations for specific monument modifications reflecting the above considerations will be submitted separately from this Final Report should you concur with my recommendations."[19]

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least-4-national-monuments-and-modify-a-half-dozen-others-zinke-tells-trump/2017/09/17/a0df45cc-9b48-11e7-82e4-f1076f6d6152_story.html; the story contains a link to the final report: Ryan K. Zinke, Memorandum for the President, *Final Report Summarizing Findings of the Review of Designations Under the Antiquities Act*, at https://www.documentcloud.org/documents/4052225-Interior-Secretary-Ryan-Zinke-s-Report-to-the.html. Hereinafter cited as *Final Report*.

[14] The total of 27 monuments reviewed includes the six monuments whose reviews were concluded early. See footnote 11.

[15] *Final Report*, p. 9.

[16] See for example, Jim Carlton, "Trump Plan to Open Up Monuments Draws Industry Praise, Environmentalists' Ire," *Wall Street Journal*, September 21, 2017, at https://www.wsj.com/articles/trump-plan-to-open-up-monuments-draws-industry-praise-environmentalists-ire-1505998800; Gary Martin and Henry Brean, "Applause, Criticism Greet Leak of Zinke's Monument Recommendations," *Las Vegas Review-Journal*, September 18, 2017, https://www.reviewjournal.com/news/politics-and-government/nevada/applause-criticism-greet-leak-of-zinkes-monument-recommendations/; Jennifer Yachnin, "Bishop Geared up to Introduce Bills on Utah Sites," *E&E Daily*, September 27, 2017, at https://www.eenews.net/stories/1060061795; and Jennifer Yachnin, "Dems to Trump: 'Reject This Sham Report,'" *E&E Daily*, September 19, 2017, at https://www.eenews.net/stories/106006102.

[17] For a comparison of provisions of monument proclamations for land-based monuments that were reviewed under the executive order, see CRS Report R44886, *Monument Proclamations Under Executive Order Review: Comparison of Selected Provisions*, by Carol Hardy Vincent and Laura A. Hanson.

[18] See, for instance, the recommendations for Bears Ears National Monument, *Final Report*, p. 10.

[19] *Final Report*, p. 18.

The number of recommendations per monument ranged from one recommendation for each of three marine monuments (Northeast Canyons and Seamounts, Pacific Remote Islands, and Rose Atoll),[20] to six recommendations for each of two monuments (Bears Ears and Organ Mountains-Desert Peaks).[21] The most common recommendation was to amend the proclamations for specified purposes. For 8 of the 10 monuments, the Secretary recommended amending the proclamations, whereas for the other 2 monuments—Pacific Remote Islands Marine and Rose Atoll Marine—the Secretary recommended *either* amending the proclamations *or* making boundary revisions.

Six of the 10 proclamations would be amended for several purposes, namely "to protect objects and prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights."[22] The six monuments are Bears Ears, Cascade Siskiyou, Gold Butte, Grand Staircase-Escalante, Organ Mountains-Desert Peaks, and Rio Grande del Norte. For these six monuments, as well as Katahdin Woods and Waters, the Secretary recommended similar changes to agency management plans or development of plans with these emphases.[23] The other four proclamations would be amended for a primary purpose, either regarding commercial fishing for certain marine monuments (Northeast Canyons and Seamounts, Pacific Remote Islands, and Rose Atoll) or active timber management for Katahdin Woods and Waters.[24]

Boundary changes were proposed for four national monuments: Bears Ears, Cascade-Siskiyou, Gold Butte, and Grand Staircase-Escalante. As mentioned, for two additional monuments—Pacific Remote Islands Marine and Rose Atoll Marine—the Secretary recommended *either* amending the proclamations *or* making boundary revisions. For all but Grand Staircase-Escalante, the Secretary specified the purposes of the boundary changes, and these purposes differed among the monuments. In the case of Bears Ears, the boundaries would be revised "to protect objects and ensure the size is conducive to [their] effective protection."[25] The Gold Butte boundary change would "protect historic water rights." The Cascade-Siskiyou revision pertained to allowing sustained timber yield and reducing impacts on private lands, whereas the Pacific Remote Islands Marine and Rose Atoll Marine boundary adjustments related to allowing commercial fishing.

The final report contained other recommendations for the 10 monuments, some of which recommend additional authority or other action from Congress. As shown in **Table 2**, the Secretary recommended that

- DOI and Congress work together "to secure funding for adequate infrastructure and management needed to protect objects effectively," for six monuments;

[20] **Table 2** instead reflects two recommendations for each of Pacific Remote Islands and Rose Atoll because a single recommendation for each monument contained two options—proclamation amendments or boundary revisions.

[21] **Table 2** reflects only five recommendations for Organ Mountains-Desert Peaks because two recommendations on DOI collaboration with other departments on risk assessment are grouped together in the last column of the table.

[22] See, for instance, the recommendations for Bears Ears National Monument, *Final Report*, p. 10.

[23] Management plans typically address resource protection and use of lands, and are prepared and revised as needed by the respective managing agencies.

[24] The primary purposes were specified as follows: for Northeast Canyons and Seamounts Marine, Pacific Remote Islands Marine, and Rose Atoll Marine "to allow commercial fishing and ensure the practice is managed under the Magnuson-Stevens Fishery Conservation and Management Act"; and for Katahdin Woods and Waters, "to promote a healthy forest through active timber management."

[25] *Final Report*, p. 10.

- the President request authority from Congress to enable tribal comanagement of cultural areas, for four monuments;
- Congress "make more appropriate conservation designations, such as national recreation areas or national conservation areas," for Bears Ears; and
- DOI work with the Department of Homeland Security to assess risks to border safety in a specified area, and with the Department of Defense to assess risks to operational readiness of nearby military installations, for Organ Mountains-Desert Peaks.

Other Recommendations

In addition to the recommendations for the 10 areas, the final report contained broader proposals. They included changes to the monument designation process to establish standards for public input and processes and to include "clear criteria for designations and methodology for meeting conservation and protection goals."[26] According to the Secretary, these changes to the monument designation process could be made through "legislation, regulations, or internal guidance within the Executive Branch, such as an Executive Order or a Secretary's Order."[27]

The Secretary asserted that the Antiquities Act has been used many times for the "proper stewardship of objects of cultural, historic, or scientific interest."[28] He further noted that some additional areas suggested by stakeholders "merit protection and designation" through the Antiquities Act. The final report identified these areas as Camp Nelson in Kentucky, the Medgar Evers Home in Mississippi, and the Badger-Two Medicine area in Montana. The Secretary recommended that these three areas be evaluated for national monument designation.

The Secretary recommended that the President ask Congress to take certain actions. They included clarifying the limits of executive authority under the Antiquities Act and the intent of Congress regarding land use in monument areas containing other protective designations.

According to the Secretary, DOI has sometimes been too restrictive in implementing monument management plans for protection of monument objects, so as "to impede allowable uses" on monument lands.[29] DOI will review monument management plans and update them as needed to address this issue, according to the final report.

Recommendations in Historical Context[30]

Since the enactment of the Antiquities Act in 1906, Presidents have issued 259 proclamations to establish new monuments and to modify national monuments established by earlier presidential proclamation. Such modifications have included enlargement or diminishment of monument boundaries and other changes, as shown in **Table 3**.

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[26] *Final Report*, p. 18.

[27] *Final Report*, p. 18.

[28] *Final Report*, p. 18.

[29] *Final Report*, p. 19.

[30] This discussion of presidential use of the Antiquities Act throughout its history is primarily based on the list of national monuments on the website of the National Park Service at https://www.nps.gov/archeology/sites/antiquities/MonumentsList.htm. Although last updated on May 8, 2017, this site lists monuments established through September 2016. After that date, President Obama issued a total of seven monument proclamations, including five to establish monuments and two to enlarge monuments. These proclamations also were a source for the discussion in this section.

Secretary Zinke's final report does not specifically recommend monument enlargements, and has been generally interpreted as likely recommending reductions instead. Nevertheless, it is worth noting that in the past, Presidents have expanded existing monuments on 76 occasions, as shown in **Table 3**.[31] These enlargements were made over the past century, with the first in 1909 and the last in 2017. They were of widely varying acreages and percentages of the sizes of the original monuments. The biggest acreage expansion occurred in 2016, when President Obama enlarged the Papahānaumokuākea Marine National Monument by 283.4 million acres, more than quadrupling the size of the monument to approximately 373 million acres. The largest expansion of a terrestrial monument occurred in 1931, when President Hoover expanded the Katmai National Monument by 1,609,600 acres, a 148% increase over the 1,088,000 acreage at establishment.[32] By contrast, in 1958, President Eisenhower proclaimed the smallest acreage expansion, by adding 0.15 acres to the Tumacácori National Monument.[33] Some monuments have been expanded multiple times. For instance, four different Presidents enlarged the Muir Woods National Monument following its establishment in 1908.

Past Presidents also have diminished national monuments, although less frequently than they have expanded them. Specifically, Presidents reduced monuments on 12 occasions,[34] with the first such action occurring in 1911 and the most recent in 1960. The diminishments varied widely in terms of acreages and percentages of the original monument sizes. Acreage reductions ranged from 52 acres, in 1941 for the Wupatki National Monument, to 313,280 acres, in 1915 for the Mount Olympus National Monument,[35] as shown in **Table 4**. Percentage reductions varied from 0.03%, in 1912 for the Mount Olympus National Monument, to 89%, in 1912 for the Navajo National Monument. Some monuments have been reduced multiple times. Three different Presidents diminished Mount Olympus National Monument following its establishment in 1909, for example.[36]

The final report does not make clear whether the Secretary proposed boundary changes that would both remove areas from one part of a monument while adding acreage to another area of the monument. Since enactment of the Antiquities Act, six presidential proclamations have both enlarged and diminished national monuments, as shown in **Table 5**. These proclamations all were issued between 1956 and 1963. They typically added acreage to one area of a monument and removed acreage from another portion of the monument. Of the six proclamations, four removed more land than was added, thus reducing the size overall; one added more land than was removed, for a net gain in land; and one added and removed the same number of acres, resulting in no change in size. The six proclamations reflected varying percentages of change to the original monument sizes, ranging from -20% to +179%.

Presidential changes to monument sizes have sometimes occurred after congressional enactment of revisions to monument boundaries/sizes, and have included both enlargement and

[31] This figure does not include six proclamations that simultaneously expanded one area of a monument while reducing the acreage in another portion of the monument, as discussed below.

[32] In 1980, Congress redesignated the area as a National Park and National Preserve.

[33] In 1990, Congress redesignated the area as a National Historical Park.

[34] This figure does not include six proclamations that simultaneously expanded one area of a monument while reducing the acreage in another portion of the monument, as discussed below.

[35] In 1938, Congress redesignated the area as a National Park.

[36] In this CRS report, information on presidential reduction of national monuments is derived primarily from National Park Service sources and monument proclamations. Additional information on presidential reduction of national monuments is contained in Andy Kerr, *Precedent for Secretary Zinke's Gut-Job on the National Monuments*, The Larch Company, 2017, at https://www.eenews.net/assets/2017/09/21/document_gw_04.pdf.

diminishment of monuments. The Craters of the Moon National Monument, established by presidential proclamation in 1924, offers two examples. In the first example, following congressional removal of areas from the monument in 1936, President Franklin D. Roosevelt further diminished the monument (1941), and then President Kennedy enlarged it (1962). In the second example, following congressional revision in 1996 in the form of enlargement of some areas of the monument and diminishment of others, President Clinton enlarged the monument in 2000.[37] The Pinnacles National Monument provides a third example. In 1976, Congress added areas to the monument; in 2000, President Clinton further enlarged the monument.[38]

The final report did not recommend the abolition of any national monuments. The Antiquities Act does not expressly authorize a President to abolish a national monument established by an earlier presidential proclamation, and no President has done so. There have been no court cases deciding the issue of the authority of the President to abolish a national monument.[39]

The final report recommends amending monument proclamations regarding resource management. On eight occasions, between 1911 and 2007, Presidents have issued proclamations whose primary purpose was other than to enlarge or diminish monument size, as shown in **Table 6**. Two of the eight proclamations appear to pertain to resource management. In 1936, President Franklin D. Roosevelt modified the Katmai National Monument to make the reservations in the earlier proclamations subject to valid existing rights, since maintained.[40] In 2007, President George W. Bush amended the Papahānaumokuākea Marine National Monument regarding conditions for issuing permits for Native Hawaiian practices, as well as to change the name (from Northwestern Hawaiian Islands Marine National Monument). Another two of the eight proclamations, for Great Sand Dunes and Buck Island Reef, revised the descriptions of the areas included in the monuments. The Great Sand Dunes revision followed a resurvey,[41] and the Buck Island revision sought to correct an error. The remaining four proclamations essentially affirmed the monument boundaries.

The final report recommended that three areas be evaluated for national monument designation. Since the enactment of the Antiquities Act in 1906, Presidents have established 157 national monuments.[42]

Congress, too, has created national monuments on federal lands on numerous occasions under its constitutional authority to enact legislation regarding federal lands.[43] This authority is not defined or limited by the provisions of the Antiquities Act. For instance, Congress could enact legislation providing more land uses than are typical for national monuments created by the President, such as allowing new commercial development, or could choose to provide additional protections.

Congress also has modified monuments (including those created by the President)—for instance, by changing their boundaries. Congress has abolished some monuments outright and converted

[37] In 2002, Congress redesignated the area. It is currently a National Monument and National Preserve.

[38] In 2013, Congress redesignated the area as a National Park.

[39] For a summary of presidential authority regarding national monuments, see CRS Report R44687, *Antiquities Act: Scope of Authority for Modification of National Monuments*, by Alexandra M. Wyatt.

[40] In 1980, Congress redesignated the area as a National Park and National Preserve.

[41] In 2000, Congress redesignated the area as a National Park and National Preserve.

[42] Not all of these areas are still national monuments. Some have been redesignated by Congress as other protected areas, for example.

[43] The Property Clause in the U.S. Constitution, Article IV, Section 3, states, "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.... "

others into different protective designations, such as national parks.[44] Approximately half of the current national parks were first designated as national monuments, for instance.

[44] For example, the Fossil Cycad National Monument in South Dakota was abolished by an act of August 1, 1956, and the area was transferred to the Bureau of Land Management to be administered under the public land laws. As another example, the Papago Saguaro National Monument in Arizona was abolished by an act of April 7, 1930, and the area was conveyed to the state of Arizona for park, recreational, and other public purposes.

Table 1. List and Status of National Monuments Under Executive Order Review

State	Monument	President	Proc. Year	Managing Agencies	Current Size (Acres)	Recommendations in Final Report
Arizona	Grand-Canyon Parashant	Clinton	2000	BLM/NPS	1,021,030	No. Removed from EO review 8/4/17
	Ironwood Forest	Clinton	2000	BLM	129,055	No
	Vermilion Cliffs	Clinton	2000	BLM	279,566	No
	Sonoran Desert	Clinton	2001	BLM	486,400	No
California	Giant Sequoia	Clinton	2000	FS	328,411	No
	Carrizo Plain	Clinton	2001	BLM	211,045	No
	San Gabriel Mountains	Obama	2014	FS	336,575	No
	Berryessa Snow Mountain	Obama	2015	BLM/FS	330,780	No
	Mojave Trails	Obama	2016	BLM	1,600,000	No
	Sand to Snow	Obama	2016	BLM/FS	154,000	No. Removed from EO review 8/16/17
Colorado	Canyons of the Ancients	Clinton	2000	BLM	176,370	No. Removed from EO review 7/21/17
Idaho	Craters of the Moon	Clinton	2000	BLM/NPS	738,420	No. Removed from EO review 7/13/17
Maine	Katahdin Woods and Waters	Obama	2016	NPS	87,564	Yes
Montana	Upper Missouri River Breaks	Clinton	2001	BLM	377,346	No. Removed from EO review 8/2/17
Nevada	Basin and Range	Obama	2015	BLM	703,585	No
	Gold Butte	Obama	2016	BLM	296,937	Yes
New Mexico	Rio Grande del Norte	Obama	2013	BLM	242,710	Yes

State	Monument	President	Proc. Year	Managing Agencies	Current Size (Acres)	Recommendations in Final Report
	Organ Mountains-Desert Peaks	Obama	2014	BLM	496,529	Yes
Oregon/ California	Cascade-Siskiyou	Clinton Obama	2000 2017	BLM	113,341	Yes
Utah	Grand Staircase-Escalante	Clinton	1996	BLM	1,866,331	Yes
	Bears Ears	Obama	2016	BLM/FS	1,353,000	Yes. Interim report also had recommendations
Washington	Hanford Reach	Clinton	2000	FWS/DOE	194,451	No. Removed from EO review 7/13/17
Marine Areas						
Hawaii	Papahānaumokuākea Marine	G.W. Bush Obama	2006 2016	FWS/NOAA	372,848,597	No
	Pacific Remote Islands Marine	G.W. Bush Obama	2009 2014	FWS/NOAA/ DOD	313,941,851	Yes
Massachusetts	Northeast Canyons and Seamounts Marine	Obama	2016	FWS/NOAA	3,144,320	Yes
American Samoa	Rose Atoll Marine	G.W. Bush	2009	FWS/NOAA	8,609,045	Yes
Northern Mariana Islands and Guam	Marianas Trench Marine	G.W. Bush	2009	FWS/NOAA	61,077,668	No

Sources: Prepared by CRS, based on agency sources as follows: For BLM: U.S. Dept. of the Interior, Bureau of Land Management, *National Landscape Conservation System: National Monuments*, as of January 2017, https://www.blm.gov/sites/blm.gov/files/uploads/Monuments_Q1_2017.pdf; for FS: U.S. Dept. of Agriculture, Forest Service, *Land Areas Report—As of Sept 30, 2016*, Table 18, https://www.fs.fed.us/land/staff/lar/LAR2016/Table-18-NationalMonumentAreasbyState.pdf; for FWS: U.S. Dept. of the Interior, Fish and Wildlife Service, *Annual Report of Lands Under Control of the U.S. Fish and Wildlife Service, as of September 30, 2016*, Table 10, https://www.fws.gov/refuges/land/PDF/2016_Annual_Report_of_Lands_Data_Tables2.pdf#page=56; for NPS: U.S. Dept. of the Interior, National Park Service, Land Resources Division, National Park Service, *Listing of Acreage by Park*, as of December 31, 2016, https://irma.nps.gov/Stats/FileDownload/1297.

Notes: BLM = Bureau of Land Management, DOD = Department of Defense, DOE = Department of Energy, FS = Forest Service, FWS = Fish and Wildlife Service, NOAA = National Oceanic and Atmospheric Administration, NPS = National Park Service. The column entitled "Proc. Year" indicates the years in which the monument proclamations were issued.

Table 2. Recommendations in Final Report for 10 National Monuments

Monument	Amend Proclamation	Agency Revise/Develop Management Plan	Change Boundary	DOI/ Congress Secure Funding	President Request Authority for Tribal Comanagement	Congress Make Conservation Designations	DOI/Other Depts. Assess Risks
Bears Ears	X	X	X	X	X	X	—
Cascade-Siskiyou	X	X	X	X	—	—	—
Gold Butte	X	X	X	X	X	—	—
Grand Staircase-Escalante	X	X	X	X	—	—	—
Katahdin Woods and Waters	X	X	—	—	—	—	—
Northeast Canyons and Seamounts Marine	X	—	—	—	—	—	—
Organ Mountains-Desert Peaks	X	X	—	X	X	—	X
Pacific Remote Islands Marine[a]	X	—	X	—	—	—	—
Rio Grande del Norte	X	X	—	X	X	—	—
Rose Atoll Marine[a]	X	—	X		—	—	—

Source: Prepared by CRS, based on Ryan K. Zinke, Memorandum for the President, *Final Report Summarizing Findings of the Review of Designations Under the Antiquities Act*, at https://www.documentcloud.org/documents/4052225-Interior-Secretary-Ryan-Zinke-s-Report-to-the.html.

a. A single recommendation was for the proclamation to be amended *or* the boundary to be revised. This recommendation is reflected in both of the columns for "amend proclamation" and "change boundary."

Table 3. Number, Type, and Acreage of Presidential Proclamations Under the Antiquities Act of 1906

	Established		Enlarged		Diminished		Enlarged and Diminished		Other[a]		Total	
President	**No.**	**Acres**	**No.**	**Acres**	**No.**	**Acres**	**No.**	**Net Acres**	**No.**	**Acres**	**No.**	**Net Acres**
Roosevelt, T.	18	1,530,934	0	0	0	0	0	0	0	0	18	1,530,934
Taft, W.	10	32,099	1	2,620	3	-26,106	0	0	1[b]	[1,480]	15	8,614
Wilson, W.	13	1,122,923	3[c]	77,280	1	-313,280	0	0	1[d]	0	18	886,923
Harding, W.	8	8,990	2	2,782	0	0	0	0	0	0	10	11,772
Coolidge, C.	13	1,454,261	5	50,842	1	-640	0	0	0	0	19	1,504,464
Hoover, H.	9	1,361,492	10[e]	1,679,469	0	0	0	0	0	0	19	3,040,961
Roosevelt, F.	11	1,516,893	20	1,498,475[f]	4	-71,906	0	0	1[g]	0	36	2,943,462
Truman, H.	1	1,000	9[h]	27,099	1	-4,700	0	0	1[i]	[44,810]	12	23,399
Eisenhower, D.	2	5,265	7	7,207	2	-29,588	4	-9,251	0	0	15	-26,366
Kennedy, J.	2	1,160	3	21,093	0	0	2	3,873	1[j]	0	8	26,127
Johnson, L.	1	32,547	4[k]	358,594	0	0	0	0	0	0	5	391,141
Ford, G.	0	0	2	87	0	0	0	0	1[l]	[30]	3	87
Carter, J.	15	54,125,000	2	1,920,000	0	0	0	0	0	0	17	56,045,000
Clinton, W.	19	5,031,273	3	686,442	0	0	0	0	0	0	22	5,717,715
Bush, G. W.	6	214,761,510	0	0	0	0	0	0	2[m]	[22]	8	214,761,510
NM	*2*	*6,310*	*0*	*0*	*0*	*0*	*0*	*0*	*1*	*[22]*	*3*	*6310*
Marine NM	*4*	*214,755,200*	*0*	*0*	*0*	*0*	*0*	*0*	*1*	*0*	*5*	*214,755,200*
Obama, B.	29	8,824,133	5	544,748,263	0	0	0	0	0	0	34	553,572,396
NM	*28*	*5,679,813*	*3*	*55,895*	*0*	*0*	*0*	*0*	*0*	*0*	*31*	*5,735,708*
Marine NM	*1*	*3,144,320*	*2*	*544,692,368*	*0*	*0*	*0*	*0*	*0*	*0*	*3*	*547,836,688*
Total	**157**	**289,809,481[n]**	**76**	**551,080,254[o]**	**12**	**-446,220**	**6**	**-5,378**	**8**	**[46,342][p]**	**259**	**840,438,137**

Sources: Prepared by CRS, based primarily on National Park Service data at https://www.nps.gov/archeology/sites/antiquities/monumentslist.htm, dated May 8, 2017, and monument proclamations issued on December 28, 2016, and January 12, 2017.

Notes: (1) This table reflects the number of times each President used the authority in the Antiquities Act to issue monument proclamations and the primary purpose of the proclamations (e.g., to establish a monument). Each proclamation pertained to one monument. **(2)** Not all proclamations specified the number of acres affected; acreage totals for these proclamations are generally not reflected in the table, with the exception of one enlargement (Katmai 1931). **(3)** The column entitled "Enlarged and Diminished" reflects proclamations that added acreage to a monument and removed other acreage from the monument. The numbers reflect the net overall total (whether positive or negative) of the proclamations. **(4)** This table does not reflect a 1941 proclamation by President Franklin D. Roosevelt, under his authority in the Antiquities Act, to expand the Ocmulgee National Monument. The President had established the monument in 1936, under specific authority provided in a 1934 law. It is unclear as to the extent to which Presidents have used authority in the Antiquities Act under similar circumstances involving initial monument authorization by Congress. Such instances do not appear to be contained in the primary NPS sources on which this table is based. **(5)** This table does not reflect a 1926 proclamation by President Calvin Coolidge authorizing a group to erect a monument within Cabrillo NM since the previous group authorized by an earlier proclamation (in 1913) had failed to erect the monument. **(6)** This table does not reflect a 1910 action by President Taft to transfer the Pinnacles National Monument to the then General Land Office, as it is unclear if the President took this action by presidential proclamation under the Antiquities Act. **(7)** NM=National Monument. President Obama and President Bush issued proclamations pertaining to both terrestrial and marine national monuments, as shown in the table.

a. This column provides the number and acreage of proclamations whose primary purpose was "other" than to enlarge or diminish monument size. It reflects monument proclamations issued by Presidents that are not shown in the prior columns.

b. Reflects the confirmation of the boundaries of one monument.

c. Includes the enlargement and renaming of one monument.

d. Reflects confirmation of the boundaries of a monument.

e. Includes the enlargement of one monument and designation of NPS as monument manager (Bandelier, 1932). The 1931 Katmai enlargement was not specified in the proclamation, but the acreage (1,609,600) was noted in two NPS administrative histories (https://www.nps.gov/parkhistory/online_books/katm/adhi/chap3.htm and http://npshistory.com/publications/katm/at-the-heart-of-katmai.pdf#page=41) and has been included in this table. Four proclamations are included in this total, although their associated acreage is not reflected because it is not specified in the proclamations. One of the four is the proclamation of July 9, 1930, to expand the Craters of the Moon NM that does not identify the size of the enlargement or the Antiquities Act as the authority for issuing the proclamation. The other three proclamations where acreage was not specified were for Petrified Forest (1931), Scotts Bluff (1932), and Colorado (1933).

f. Enlargement size of Katmai (1942) was not specified in the proclamation.

g. Reflects modification of restrictions.

h. Includes the resurvey and enlargement of one monument.

i. Reflects the resurvey and modification of one monument.

j. Reflects confirmation of the boundaries of one monument.

k. Includes the enlargement and renaming of one monument.

l. Reflects amendment of the description of one monument.

m. Reflects the reaffirmation of one monument and the renaming and amendment of another monument.

n. Includes five marine national monuments with 217,899,520 acres.

o. Includes two marine national monument enlargements with 544,692,368 acres.

p. This acreage is not included in the total shown because it is not clear that it is additional acreage.

Table 4. Presidential Proclamations Diminishing National Monuments

Monument	Year Diminished	Acreage Before Diminishment	Acreage Diminished	% Diminished
Petrified Forest	1911	60,776	25,626	42%
Navajo	1912	360	320	89%
Mount Olympus	1912	639,200	160	0.03%
Mount Olympus	1915	639,040	313,280	49%
Mount Olympus	1929	325,760	640	0.2%
White Sands	1938	131,646	Unspecified	N/A
Grand Canyon "II"	1940	273,145	71,854	26%
Wupatki	1941	35,865	52	0.1%
Craters of the Moon	1941	N/A	Unspecified	N/A
Santa Rosa Island	1945	9,500	4,700	49%
Glacier Bay	1955	2,284,276	29,118	1%
Black Canyon of the Gunnison	1960	13,148	470	4%

Sources: Prepared by CRS, based primarily on National Park Service data at https://www.nps.gov/archeology/sites/antiquities/monumentslist.htm, dated May 8, 2017, and monument proclamations issued on December 28, 2016, and January 12, 2017.

Table 5. Presidential Proclamations Simultaneously Diminishing and Enlarging National Monuments

Monument	Year Diminished and Enlarged	Acreage Before Diminishment /Enlargement	Acreage Diminished	Acreage Enlarged	% Change[a]
Hovenweep	1956	447[b]	40	40+[c]	0%
Great Sand Dunes	1956	44,8109[d]	9,880	960	-20%
Colorado	1959	N/A[e]	211	120	N/A
Arches	1960	33,680	720	480	-0.7%
Natural Bridges	1962	2,740	320	5,236	+179%
Bandelier	1963	30,578	3,925	2,882	-3%

Sources: Prepared by CRS, based primarily on National Park Service (NPS) data at https://www.nps.gov/archeology/sites/antiquities/monumentslist.htm, dated May 8, 2017, and monument proclamations issued on December 28, 2016, and January 12, 2017.

a. This column reflects the percent change in size resulting from the combined diminishment and enlargement.

b. This acreage includes an enlargement in 1951 of 80 acres, although the enlargement is identified by the NPS as 80+.

c. This enlargement is identified by the NPS as 40+.

d. Proclamation No. 2681 (1946), which resurveyed the monument, revised the original acreage stated in the 1932 establishing proclamation.

e. The size at establishment in 1911 was 13,883 acres. The monument was enlarged in 1933 by an unspecified amount, thus the total size in 1959 is not identifiable in the National Park Service sources consulted.

Table 6. Other Presidential Proclamations Affecting National Monuments

Monument	Year Modified	Description
Lewis and Clark Cavern	1911	Boundaries confirmed
Natural Bridges	1916	Boundaries confirmed
Katmai	1936	Restrictions modified
Great Sand Dunes	1946	Resurveyed and modified
Timpanogos Cave	1962	Boundaries confirmed
Buck Island Reef	1975	Amending description
Governors Island	2003	Reaffirmed
Papahānaumokuākea Marine[a]	2007	Changed name and amended provision

Source: Prepared by CRS, based primarily on National Park Service (NPS) data at https://www.nps.gov/archeology/sites/antiquities/monumentslist.htm, dated May 8, 2017, and monument proclamations issued on December 28, 2016, and January 12, 2017.

Notes: This table provides the number and acreage of proclamations whose primary purpose was "other" than to enlarge or diminish monument size. It does not reflect a 1910 action by President Taft to transfer the Pinnacles National Monument to the then General Land Office, as it is unclear if the President took this action by presidential proclamation under the Antiquities Act.

a. The monument was formerly named Northwestern Hawaiian Islands Marine National Monument.

Appendix. Chronology of National Monument Review Under Executive Order

Table A-1. Chronology of National Monument Review Under Executive Order

April 26, 2017	President Issues EO on the "Review of Designations Under the Antiquities Act."
May 5, 2017	DOI releases the list of national monuments under EO review.
May 11, 2017	Public comment period for EO review begins.[a]
June 10, 2017	DOI Secretary submits interim report on EO review of national monuments, focused on Bears Ears National Monument.[b]
July 10, 2017	Public comment period ends for all national monuments under EO review.
July 13, 2017	Craters of the Moon National Monument and Hanford Reach National Monument are removed from EO review.
July 21, 2017	Canyon of the Ancients National Monument is removed from EO review.
August 2, 2017	Upper Missouri River Breaks National Monument is removed from EO review.
August 4, 2017	Grand Canyon-Parashant National Monument is removed from EO review.
August 16, 2017	Sand to Snow National Monument is removed from EO review.
August 24, 2017	DOI Secretary submits final report to the President. The report is marked "Draft Deliberative—Not for Distribution," and was not released to the public. A report summary was publicly released.[c]
September 18, 2017	The final report on EOs under review is published by the news media.[d]

a. See Department of the Interior, "Review of Certain National Monuments Established Since 1996; Notice of Opportunity for Public Comment," 82 *Federal Register* 22016, May 11, 2017, at https://www.regulations.gov/document?D=DOI-2017-0002-0001.

b. See Secretary of the Interior, Memorandum to the President, *Interim Report Pursuant to Executive Order 13792*, June 10, 2017, at https://www.doi.gov/sites/doi.gov/files/uploads/interim_report_eo_13792.pdf.

c. See Department of the Interior, *Report Summary by U.S. Secretary of the Interior Ryan Zinke*, at https://www.doi.gov/sites/doi.gov/files/uploads/monument-report-summary.pdf.

d. See Ryan K. Zinke, Memorandum for the President, *Final Report Summarizing Findings of the Review of Designations Under the Antiquities Act*, at https://www.documentcloud.org/documents/4052225-Interior-Secretary-Ryan-Zinke-s-Report-to-the.html.

Author Information

Carol Hardy Vincent
Specialist in Natural Resources Policy

Laura A. Hanson
Senior Research Librarian

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