

RESOLUTION OF THE
NAABIK'ÍYÁTI' STANDING COMMITTEE OF THE
23RD NAVAJO NATION COUNCIL - Fourth Year, 2018

AN ACTION

RELATING TO RESOURCES AND DEVELOPMENT COMMITTEE AND
NAABIK'ÍYÁTI' COMMITTEE OPPOSING H.R. 4532 TITLED "SHASH JÁA
NATIONAL MONUMENT AND INDIAN CREEK NATIONAL MONUMENT ACT"

WHEREAS:

- A. The Navajo Nation established the Resources and Development Committee ("RDC") as a Navajo Nation Council standing committee and as such empowered RDC with oversight of land, environmental protection and cultural resources and authority to review and recommend resolutions to the Naabik'íyáti' Committee and Navajo Nation Council to accomplish or impact the Committee purpose. See 2 N.N.C. §§ 164 (A)(9), 500 (C), 501 (B)(4)(a) (2015); See also CO-45-12.
- B. The Navajo Nation established the Naabik'íyáti' Committee as a Navajo Nation Council standing committee and as such empowered Naabik'íyáti' Committee to coordinate with all committees, Chapters, branches and entities concerned with all Navajo appearances and testimony before Congressional committees, and departments of the United States government. See 2 N.N.C. §§ 164 (A)(9), 700 (A), 701 (A)(8) (2015); See also CO-45-12.
- C. The Navajo Nation has a government-to-government relationship with the United States of America, Treaty of 1868, Aug. 12, 1868, 15 Stat. 667.
- D. In Proclamation 9558 of December 28, 2016, President Barack Obama exercised his authority under section 320301 of Title 54, United States Code (the Antiquities Act), and established the Bear Ears National Monument located in the state of Utah. The Proclamation reserved approximately 1.35 million acres of federal land to be protected and managed by the Department of the Interior's Bureau of Land Management and Department of Agriculture's United States Forest Service. The Proclamation also acknowledged the centuries of habitation of the area by indigenous peoples, the protection it provided to Navajo people during the Long Walk to Fort Sumner, and the profound sacredness of the

land encompassing the Bears Ears National Monument to the Navajo Nation and other surrounding Native American tribes. In addition to the historical and cultural importance of the area, the Proclamation also established the Bears Ears National Monument for the protection of including but not limited to, various vegetation, geology, topography and ecology found within. The Proclamation also established the Bears Ear Commission, comprised of tribal leaders, to provide guidance and recommendation in the development and implementation of the Monument's management plans. See Proclamation No. 9558, 82 Fed. Reg. 3, 1139 (Jan. 5, 2017) attached hereto as **Exhibit A**.

- E. In Proclamation 9681 of December 4, 2017, President Donald Trump unlawfully attempted to revoke the Bears Ears National Monument established in Proclamation 9558 and attempted to create two new smaller monuments at Indian Creek and Shash Jáa that combined equal only 15 percent of the original 1.35 million-acre landbase of the Bears Ears National Monument. See Proclamation No. 9681, 82 Fed. Reg. 235, 58081 (Dec. 8, 2017) attached hereto as **Exhibit B**.
- F. On December 4, 2017, H.R. 4532 titled "Shash Jáa National Monument and Indian Creek National Monument Act" was introduced to the House of Representatives. H.R. 4532 seeks to void and nullify Presidential Proclamation 9558 by President Barack Obama. See H.R. 4532, 115th Cong. (2017) attached hereto as **Exhibit C**.
- G. The Bears Ears Inter-Tribal Coalition is comprised of various Indian tribes including the Navajo Nation, represented by the Honorable Davis Filfred, The Hopi Tribe, The Ute Indian Tribe, Ute Mountain Ute Tribe and the Zuni Tribe.
- H. The Navajo Nation recognizes that the area known as Bears Ears National Monument is of great significance to other Indian tribes such as the Hopi, Zuni, and Ute.
- I. The Navajo Nation has historical, cultural, and economic connections to the area known as the Bears Ears National Monument that predate Utah statehood in 1896. Association with the Bears Ears area by the Navajo people is evidenced by oral histories, ruins, and the continued utilization of the resources located within the vicinity of Bears Ears.

J. The Navajo Nation opposes H.R. 4532 for the following reasons:

1. The Act will codify the unlawful actions set forth in Presidential Proclamation 9681 and thereby reduce the landbase of the Bears Ears National Monument by more than 1,121,000 acres as established by President Barack Obama in Presidential Proclamation 9558 to approximately 142,337 acres for the "Shash Jáa National Monument" and approximately 86,447 acres for the "Indian Creek National Monument";
2. The reduction of the Bears Ears National Monument will leave countless cultural, natural, and sacred objects unprotected;
3. The Act will create a management council composed of both proponents and opponents of the Bears Ears National Monument thereby creating potential imbalance and gridlock to any successful coordination of management of the national monument;
4. The Act will eliminate meaningful government-to-government relations between tribes and the federal government facilitated by the Bears Ears Commission by imposing the State of Utah as a significant barrier between the two;
5. The Act will impose a division between affected tribes as evidenced in the imbalance of tribal representation on management boards and the use of one indigenous language over the others in the naming of the national monument;
6. The Act includes a land exchange provision that has the potential to affect tribal reservation lands and only allows for tribal consultation as an avenue for objection to land exchanges between the federal government and the State of Utah.

See The Shash Jáa National Monument and Indian Creek National Monument Act: Hearing on H.R. 4532 Before the U.S. House of Representatives Comm. on Natural Resources, 115th Cong. (2018) (Testimony of the Bears Ears Inter-Tribal Coalition) attached hereto as **Exhibit D**.

THEREFORE, BE IT RESOLVED:

- A. The Navajo Nation hereby opposes H.R. 4532 titled "Shash Jáa National Monument and Indian Creek National Monument Act" because H.R. 4532 seeks to congressionally nullify Presidential Proclamation 9558 and reduce the landbase of the Bears Ears National Monument.
- B. The Navajo Nation hereby authorizes the President of the Navajo Nation, and the Navajo Nation Washington Office, and their designees, to advocate the Navajo Nation's opposition to H.R. 4532 titled "Shash Jáa National Monument and Indian Creek National Monument Act" and to advocate for acknowledgment of the lawful designation of the full 1.35 million acre-monument established in Presidential Proclamation 9558, as well as swift implementation of the collaborative management approach described therein.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'íyáti' Committee of the 23rd Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona), at which a quorum was present and that the same was passed by a vote of 12 in Favor and 00 Opposed, on this 18th day of January, 2018.



LoRenzo C. Bates, Chairperson
Naabik'íyáti' Committee

Motion: Honorable Leonard H. Pete
Second: Honorable Jonathan Perry

Chairperson Bates not voting

Presidential Documents

Title 3—

Proclamation 9558 of December 28, 2016

The President

Establishment of the Bears Ears National Monument

By the President of the United States of America

A Proclamation

Rising from the center of the southeastern Utah landscape and visible from every direction are twin buttes so distinctive that in each of the native languages of the region their name is the same: Hoon'Naqvut, Shash Jáa, Kwiyaqatu Nukavachi, Ansh An Lashokdiwe, or "Bears Ears." For hundreds of generations, native peoples lived in the surrounding deep sandstone canyons, desert mesas, and meadow mountaintops, which constitute one of the densest and most significant cultural landscapes in the United States. Abundant rock art, ancient cliff dwellings, ceremonial sites, and countless other artifacts provide an extraordinary archaeological and cultural record that is important to us all, but most notably the land is profoundly sacred to many Native American tribes, including the Ute Mountain Ute Tribe, Navajo Nation, Ute Indian Tribe of the Uintah Ouray, Hopi Nation, and Zuni Tribe.

The area's human history is as vibrant and diverse as the ruggedly beautiful landscape. From the earliest occupation, native peoples left traces of their presence. Clovis people hunted among the cliffs and canyons of Cedar Mesa as early as 13,000 years ago, leaving behind tools and projectile points in places like the Lime Ridge Clovis Site, one of the oldest known archaeological sites in Utah. Archaeologists believe that these early people hunted mammoths, ground sloths, and other now-extinct megafauna, a narrative echoed by native creation stories. Hunters and gatherers continued to live in this region in the Archaic Period, with sites dating as far back as 8,500 years ago.

Ancestral Puebloans followed, beginning to occupy the area at least 2,500 years ago, leaving behind items from their daily life such as baskets, pottery, and weapons. These early farmers of Basketmaker II and III and builders of Pueblo I, II, and III left their marks on the land. The remains of single family dwellings, granaries, kivas, towers, and large villages and roads linking them together reveal a complex cultural history. "Moki steps," hand and toe holds carved into steep canyon walls by the Ancestral Puebloans, illustrate the early people's ingenuity and perseverance and are still used today to access dwellings along cliff walls. Other, distinct cultures have thrived here as well—the Fremont People, Numic- and Athabaskan-speaking hunter-gatherers, and Utes and Navajos. Resources such as the Doll House Ruin in Dark Canyon Wilderness Area and the Moon House Ruin on Cedar Mesa allow visitors to marvel at artistry and architecture that have withstood thousands of seasons in this harsh climate.

The landscape is a milieu of the accessible and observable together with the inaccessible and hidden. The area's petroglyphs and pictographs capture the imagination with images dating back at least 5,000 years and spanning a range of styles and traditions. From life-size ghostlike figures that defy categorization, to the more literal depictions of bighorn sheep, birds, and lizards, these drawings enable us to feel the humanity of these ancient artists. The Indian Creek area contains spectacular rock art, including hundreds of petroglyphs at Newspaper Rock. Visitors to Bears Ears can also discover more recent rock art left by the Ute, Navajo, and Paiute peoples.

It is also the less visible sites, however—those that supported the food gathering, subsistence and ceremony of daily life—that tell the story of the people who lived here. Historic remnants of Native American sheep-herding and farming are scattered throughout the area, and pottery and Navajo hogans record the lifeways of native peoples in the 19th and 20th centuries.

For thousands of years, humans have occupied and stewarded this land. With respect to most of these people, their contribution to the historical record is unknown, but some have played a more public role. Famed Navajo headman K'aayéllí was born around 1800 near the twin Bears Ears buttes. His band used the area's remote canyons to elude capture by the U.S. Army and avoid the fate that befell many other Navajo bands: surrender, the Long Walk, and forced relocation to Bosque Redondo. Another renowned 19th century Navajo leader, "Hastiin Ch'ihaajin" Manuelito, was also born near the Bears Ears.

The area's cultural importance to Native American tribes continues to this day. As they have for generations, these tribes and their members come here for ceremonies and to visit sacred sites. Throughout the region, many landscape features, such as Comb Ridge, the San Juan River, and Cedar Mesa, are closely tied to native stories of creation, danger, protection, and healing. The towering spires in the Valley of the Gods are sacred to the Navajo, representing ancient Navajo warriors frozen in stone. Traditions of hunting, fishing, gathering, and wood cutting are still practiced by tribal members, as is collection of medicinal and ceremonial plants, edible herbs, and materials for crafting items like baskets and footwear. The traditional ecological knowledge amassed by the Native Americans whose ancestors inhabited this region, passed down from generation to generation, offers critical insight into the historic and scientific significance of the area. Such knowledge is, itself, a resource to be protected and used in understanding and managing this landscape sustainably for generations to come.

Euro-Americans first explored the Bears Ears area during the 18th century, and Mormon settlers followed in the late 19th century. The San Juan Mission expedition traversed this rugged country in 1880 on their journey to establish a new settlement in what is now Bluff, Utah. To ease the passage of wagons over the slick rock slopes and through the canyonlands, the settlers smoothed sections of the rock surface and constructed dugways and other features still visible along their route, known as the Hole-in-the-Rock Trail. Cabins, corrals, trails, and carved inscriptions in the rock reveal the lives of ranchers, prospectors, and early archaeologists. Cattle rustlers and other outlaws created a convoluted trail network known as the Outlaw Trail, said to be used by Butch Cassidy and the Sundance Kid. These outlaws took advantage of the area's network of canyons, including the aptly-named Hideout Canyon, to avoid detection.

The area's stunning geology, from sharp pinnacles to broad mesas, labyrinthine canyons to solitary hoodoos, and verdant hanging gardens to bare stone arches and natural bridges, provides vital insights to geologists. In the east, the Abajo Mountains tower, reaching elevations of more than 11,000 feet. A long geologic history is documented in the colorful rock layers visible in the area's canyons.

For long periods over 300 million years ago, these lands were inundated by tropical seas and hosted thriving coral reefs. These seas infused the area's black rock shale with salts as they receded. Later, the lands were bucked upwards multiple times by the Monument Upwarp, and near-volcanoes punched up through the rock, leaving their marks on the landscape without reaching the surface. In the sandstone of Cedar Mesa, fossil evidence has revealed large, mammal-like reptiles that burrowed into the sand to survive the blistering heat of the end of the Permian Period, when the region was dominated by a seaside desert. Later, in the Late Triassic Period more than 200 million years ago, seasonal monsoons flooded an ancient river system that fed a vast desert here.

The paleontological resources in the Bears Ears area are among the richest and most significant in the United States, and protection of this area will provide important opportunities for further archaeological and paleontological study. Many sites, such as Arch Canyon, are teeming with fossils, and research conducted in the Bears Ears area is revealing new insights into the transition of vertebrate life from reptiles to mammals and from sea to land. Numerous ray-finned fish fossils from the Permian Period have been discovered, along with other late Paleozoic Era fossils, including giant amphibians, synapsid reptiles, and important plant fossils. Fossilized traces of marine and aquatic creatures such as clams, crayfish, fish, and aquatic reptiles have been found in Indian Creek's Chinle Formation, dating to the Triassic Period, and phytosaur and dinosaur fossils from the same period have been found along Comb Ridge. Paleontologists have identified new species of plant-eating crocodile-like reptiles and mass graves of lumbering sauropods, along with metoposaurus, crocodiles, and other dinosaur fossils. Fossilized trackways of early tetrapods can be seen in the Valley of the Gods and in Indian Creek, where paleontologists have also discovered exceptional examples of fossilized ferns, horsetails, and cycads. The Chinle Formation and the Wingate, Kayenta, and Navajo Formations above it provide one of the best continuous rock records of the Triassic-Jurassic transition in the world, crucial to understanding how dinosaurs dominated terrestrial ecosystems and how our mammalian ancestors evolved. In Pleistocene Epoch sediments, scientists have found traces of mammoths, short-faced bears, ground sloths, primates, and camels.

From earth to sky, the region is unsurpassed in wonders. The star-filled nights and natural quiet of the Bears Ears area transport visitors to an earlier eon. Against an absolutely black night sky, our galaxy and others more distant leap into view. As one of the most intact and least roaded areas in the contiguous United States, Bears Ears has that rare and arresting quality of deafening silence.

Communities have depended on the resources of the region for hundreds of generations. Understanding the important role of the green highlands in providing habitat for subsistence plants and animals, as well as capturing and filtering water from passing storms, the Navajo refer to such places as "Nahodishgish," or places to be left alone. Local communities seeking to protect the mountains for their watershed values have long recognized the importance of the Bears Ears' headwaters. Wildfires, both natural and human-set, have shaped and maintained forests and grasslands of this area for millennia. Ranchers have relied on the forests and grasslands of the region for ages, and hunters come from across the globe for a chance at a bull elk or other big game. Today, ecological restoration through the careful use of wildfire and management of grazing and timber is working to restore and maintain the health of these vital watersheds and grasslands.

The diversity of the soils and microenvironments in the Bears Ears area provide habitat for a wide variety of vegetation. The highest elevations, in the Elk Ridge area of the Manti-La Sal National Forest, contain pockets of ancient Engelmann spruce, ponderosa pine, aspen, and subalpine fir. Mesa tops include pinyon-juniper woodlands along with big sagebrush, low sage, blackbrush, rabbitbrush, bitterbrush, four-wing saltbush, shadscale, winterfat, Utah serviceberry, western chokecherry, hackberry, barberry, cliff rose, and greasewood. Canyons contain diverse vegetation ranging from yucca and cacti such as prickly pear, claret cup, and Whipple's fishhook to mountain mahogany, ponderosa pine, alder, sagebrush, birch, dogwood, and Gambel's oak, along with occasional stands of aspen. Grasses and herbaceous species such as bluegrass, bluestem, giant ryegrass, ricegrass, needle and thread, yarrow, common mallow, balsamroot, low larkspur, horsetail, and peppergrass also grow here, as well as pinnate spring parsley, Navajo penstemon, Canyonlands lomatium, and the Abajo daisy.

Tucked into winding canyons are vibrant riparian communities characterized by Fremont cottonwood, western sandbar willow, yellow willow, and box

elder. Numerous seeps provide year-round water and support delicate hanging gardens, moisture-loving plants, and relict species such as Douglas fir. A few populations of the rare Kachina daisy, endemic to the Colorado Plateau, hide in shaded seeps and alcoves of the area's canyons. A genetically distinct population of Kachina daisy was also found on Elk Ridge. The alcove columbine and cave primrose, also regionally endemic, grow in seeps and hanging gardens in the Bears Ears landscape. Wildflowers such as beardtongue, evening primrose, aster, Indian paintbrush, yellow and purple beeflower, straight bladderpod, Durango tumble mustard, scarlet gilia, globe mallow, sand verbena, sego lily, cliffrose, sacred datura, monkey flower, sunflower, prince's plume, hedgehog cactus, and columbine, bring bursts of color to the landscape.

The diverse vegetation and topography of the Bears Ears area, in turn, support a variety of wildlife species. Mule deer and elk range on the mesas and near canyon heads, which provide crucial habitat for both species. The Cedar Mesa landscape is home to bighorn sheep which were once abundant but still live in Indian Creek, and in the canyons north of the San Juan River. Small mammals such as desert cottontail, black-tailed jackrabbit, prairie dog, Botta's pocket gopher, white-tailed antelope squirrel, Colorado chipmunk, canyon mouse, deer mouse, pinyon mouse, and desert woodrat, as well as Utah's only population of Abert's tassel-eared squirrels, find shelter and sustenance in the landscape's canyons and uplands. Rare shrews, including a variant of Merriam's shrew and the dwarf shrew can be found in this area.

Carnivores, including badger, coyote, striped skunk, ringtail, gray fox, bobcat, and the occasional mountain lion, all hunt here, while porcupines use their sharp quills and climbing abilities to escape these predators. Oral histories from the Ute describe the historic presence of bison, antelope, and abundant bighorn sheep, which are also depicted in ancient rock art. Black bear pass through the area but are rarely seen, though they are common in the oral histories and legends of this region, including those of the Navajo.

Consistent sources of water in a dry landscape draw diverse wildlife species to the area's riparian habitats, including an array of amphibian species such as tiger salamander, red-spotted toad, Woodhouse's toad, canyon tree frog, Great Basin spadefoot, and northern leopard frog. Even the most sharp-eyed visitors probably will not catch a glimpse of the secretive Utah night lizard. Other reptiles in the area include the sagebrush lizard, eastern fence lizard, tree lizard, side-blotched lizard, plateau striped whiptail, western rattlesnake, night snake, striped whipsnake, and gopher snake.

Raptors such as the golden eagle, peregrine falcon, bald eagle, northern harrier, northern goshawk, red-tailed hawk, ferruginous hawk, American kestrel, flammulated owl, and great horned owl hunt their prey on the mesa tops with deadly speed and accuracy. The largest contiguous critical habitat for the threatened Mexican spotted owl is on the Manti-La Sal National Forest. Other bird species found in the area include Merriam's turkey, Williamson's sapsucker, common nighthawk, white-throated swift, ash-throated flycatcher, violet-green swallow, cliff swallow, mourning dove, pinyon jay, sagebrush sparrow, canyon towhee, rock wren, sage thrasher, and the endangered southwestern willow flycatcher.

As the skies darken in the evenings, visitors may catch a glimpse of some the area's at least 15 species of bats, including the big free-tailed bat, pallid bat, Townsend's big-eared bat, spotted bat, and silver-haired bat. Tinajas, rock depressions filled with rainwater, provide habitat for many specialized aquatic species, including pothole beetles and freshwater shrimp. *Eucosma navajoensis*, an endemic moth that has only been described near Valley of the Gods, is unique to this area.

Protection of the Bears Ears area will preserve its cultural, prehistoric, and historic legacy and maintain its diverse array of natural and scientific resources, ensuring that the prehistoric, historic, and scientific values of this

area remain for the benefit of all Americans. The Bears Ears area has been proposed for protection by members of Congress, Secretaries of the Interior, State and tribal leaders, and local conservationists for at least 80 years. The area contains numerous objects of historic and of scientific interest, and it provides world class outdoor recreation opportunities, including rock climbing, hunting, hiking, backpacking, canyoneering, whitewater rafting, mountain biking, and horseback riding. Because visitors travel from near and far, these lands support a growing travel and tourism sector that is a source of economic opportunity for the region.

WHEREAS, section 320301 of title 54, United States Code (known as the "Antiquities Act"), authorizes the President, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Federal Government to be national monuments, and to reserve as a part thereof parcels of land, the limits of which shall be confined to the smallest area compatible with the proper care and management of the objects to be protected;

WHEREAS, it is in the public interest to preserve the objects of scientific and historic interest on the Bears Ears lands;

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim the objects identified above that are situated upon lands and interests in lands owned or controlled by the Federal Government to be the Bears Ears National Monument (monument) and, for the purpose of protecting those objects, reserve as part thereof all lands and interests in lands owned or controlled by the Federal Government within the boundaries described on the accompanying map, which is attached to and forms a part of this proclamation. These reserved Federal lands and interests in lands encompass approximately 1.35 million acres. The boundaries described on the accompanying map are confined to the smallest area compatible with the proper care and management of the objects to be protected.

All Federal lands and interests in lands within the boundaries of the monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws or laws applicable to the U.S. Forest Service, from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of the monument.

The establishment of the monument is subject to valid existing rights, including valid existing water rights. If the Federal Government acquires ownership or control of any lands or interests in lands that it did not previously own or control within the boundaries described on the accompanying map, such lands and interests in lands shall be reserved as a part of the monument, and objects identified above that are situated upon those lands and interests in lands shall be part of the monument, upon acquisition of ownership or control by the Federal Government.

The Secretary of Agriculture and the Secretary of the Interior (Secretaries) shall manage the monument through the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM), pursuant to their respective applicable legal authorities, to implement the purposes of this proclamation. The USFS shall manage that portion of the monument within the boundaries of the National Forest System (NFS), and the BLM shall manage the remainder of the monument. The lands administered by the USFS shall be managed as part of the Manti-La Sal National Forest. The lands administered by the BLM shall be managed as a unit of the National Landscape Conservation System, pursuant to applicable legal authorities.

For purposes of protecting and restoring the objects identified above, the Secretaries shall jointly prepare a management plan for the monument and

shall promulgate such regulations for its management as they deem appropriate. The Secretaries, through the USFS and the BLM, shall consult with other Federal land management agencies in the local area, including the National Park Service, in developing the management plan. In promulgating any management rules and regulations governing the NFS lands within the monument and developing the management plan, the Secretary of Agriculture, through the USFS, shall consult with the Secretary of the Interior through the BLM. The Secretaries shall provide for maximum public involvement in the development of that plan including, but not limited to, consultation with federally recognized tribes and State and local governments. In the development and implementation of the management plan, the Secretaries shall maximize opportunities, pursuant to applicable legal authorities, for shared resources, operational efficiency, and cooperation.

The Secretaries, through the BLM and USFS, shall establish an advisory committee under the Federal Advisory Committee Act (5 U.S.C. App.) to provide information and advice regarding the development of the management plan and, as appropriate, management of the monument. This advisory committee shall consist of a fair and balanced representation of interested stakeholders, including State and local governments, tribes, recreational users, local business owners, and private landowners.

In recognition of the importance of tribal participation to the care and management of the objects identified above, and to ensure that management decisions affecting the monument reflect tribal expertise and traditional and historical knowledge, a Bears Ears Commission (Commission) is hereby established to provide guidance and recommendations on the development and implementation of management plans and on management of the monument. The Commission shall consist of one elected officer each from the Hopi Nation, Navajo Nation, Ute Mountain Ute Tribe, Ute Indian Tribe of the Uintah Ouray, and Zuni Tribe, designated by the officers' respective tribes. The Commission may adopt such procedures as it deems necessary to govern its activities, so that it may effectively partner with the Federal agencies by making continuing contributions to inform decisions regarding the management of the monument.

The Secretaries shall meaningfully engage the Commission or, should the Commission no longer exist, the tribal governments through some other entity composed of elected tribal government officers (comparable entity), in the development of the management plan and to inform subsequent management of the monument. To that end, in developing or revising the management plan, the Secretaries shall carefully and fully consider integrating the traditional and historical knowledge and special expertise of the Commission or comparable entity. If the Secretaries decide not to incorporate specific recommendations submitted to them in writing by the Commission or comparable entity, they will provide the Commission or comparable entity with a written explanation of their reasoning. The management plan shall also set forth parameters for continued meaningful engagement with the Commission or comparable entity in implementation of the management plan.

To further the protective purposes of the monument, the Secretary of the Interior shall explore entering into a memorandum of understanding with the State that would set forth terms, pursuant to applicable laws and regulations, for an exchange of land currently owned by the State of Utah and administered by the Utah School and Institutional Trust Lands Administration within the boundary of the monument for land of approximately equal value managed by the BLM outside the boundary of the monument. The Secretary of the Interior shall report to the President by January 19, 2017, regarding the potential for such an exchange.

Nothing in this proclamation shall be construed to interfere with the operation or maintenance, or the replacement or modification within the current authorization boundary, of existing utility, pipeline, or telecommunications

facilities located within the monument in a manner consistent with the care and management of the objects identified above.

Nothing in this proclamation shall be deemed to enlarge or diminish the rights or jurisdiction of any Indian tribe. The Secretaries shall, to the maximum extent permitted by law and in consultation with Indian tribes, ensure the protection of Indian sacred sites and traditional cultural properties in the monument and provide access by members of Indian tribes for traditional cultural and customary uses, consistent with the American Indian Religious Freedom Act (42 U.S.C. 1996) and Executive Order 13007 of May 24, 1996 (Indian Sacred Sites), including collection of medicines, berries and other vegetation, forest products, and firewood for personal noncommercial use in a manner consistent with the care and management of the objects identified above.

For purposes of protecting and restoring the objects identified above, the Secretaries shall prepare a transportation plan that designates the roads and trails where motorized and non-motorized mechanized vehicle use will be allowed. Except for emergency or authorized administrative purposes, motorized and non-motorized mechanized vehicle use shall be allowed only on roads and trails designated for such use, consistent with the care and management of such objects. Any additional roads or trails designated for motorized vehicle use must be for the purposes of public safety or protection of such objects.

Laws, regulations, and policies followed by USFS or BLM in issuing and administering grazing permits or leases on lands under their jurisdiction shall continue to apply with regard to the lands in the monument to ensure the ongoing consistency with the care and management of the objects identified above.

Nothing in this proclamation shall be deemed to enlarge or diminish the jurisdiction of the State of Utah, including its jurisdiction and authority with respect to fish and wildlife management.

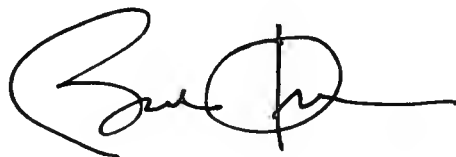
Nothing in this proclamation shall preclude low-level overflights of military aircraft, the designation of new units of special use airspace, or the use or establishment of military flight training routes over the lands reserved by this proclamation consistent with the care and management of the objects identified above.

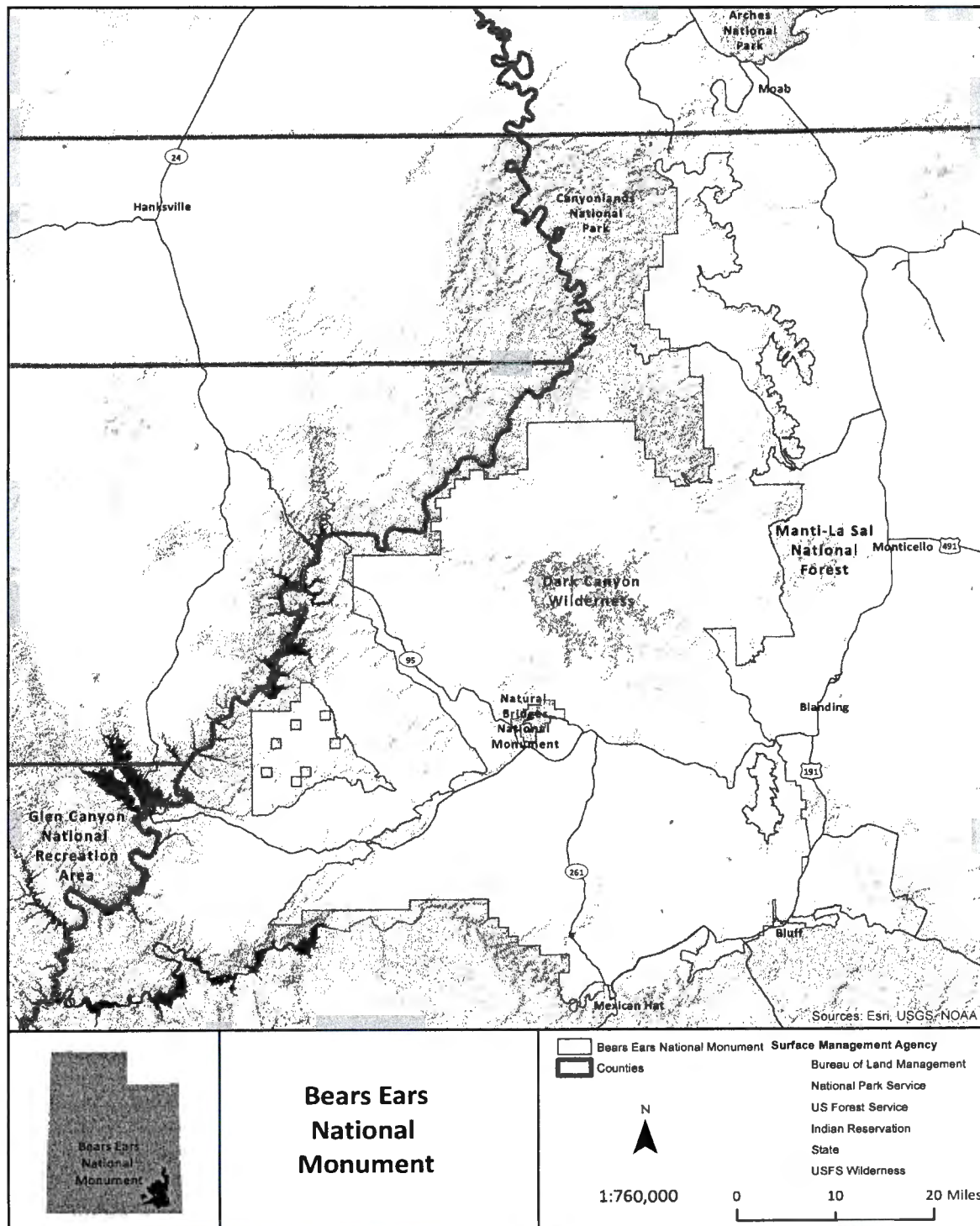
Nothing in this proclamation shall be construed to alter the authority or responsibility of any party with respect to emergency response activities within the monument, including wildland fire response.

Nothing in this proclamation shall be deemed to revoke any existing withdrawal, reservation, or appropriation; however, the monument shall be the dominant reservation.

Warning is hereby given to all unauthorized persons not to appropriate, injure, destroy, or remove any feature of the monument and not to locate or settle upon any of the lands thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-eighth day of December, in the year of our Lord two thousand sixteen, and of the Independence of the United States of America the two hundred and forty-first.

A handwritten signature in black ink, appearing to be "Barack Obama", with a large circular flourish at the end.



[FR Doc. 2017-00038

Filed 1-4-17; 8:45 am]

Billing code 4310-10-C

Federal Register

Vol. 82, No. 235

Friday, December 8, 2017

Presidential Documents

Title 3—

Proclamation 9681 of December 4, 2017

The President

Modifying the Bears Ears National Monument

By the President of the United States of America

A Proclamation

In Proclamation 9558 of December 28, 2016, and exercising his authority under section 320301 of title 54, United States Code (the “Antiquities Act”), President Barack Obama established the Bears Ears National Monument in the State of Utah, reserving approximately 1.35 million acres of Federal lands for the care and management of objects of historic and scientific interest identified therein. The monument is managed jointly by the Department of the Interior’s Bureau of Land Management (BLM) and the Department of Agriculture’s United States Forest Service (USFS). This proclamation makes certain modifications to the monument.

Proclamation 9558 identifies a long list of objects of historic or scientific interest. It describes cultural resources such as ancient cliff dwellings (including the Moon House and Doll House Ruins), Moki Steps, Native American ceremonial sites, tools and projectile points, remains of single-family dwellings, granaries, kivas, towers, large villages, rock shelters, caves, and a prehistoric road system, as well as petroglyphs, pictographs, and recent rock art left by the Ute, Navajo, and Paiute peoples. It also identifies other types of historic objects, such as remnants of Native American sheep-herding and farming operations and early engineering by pioneers and settlers, including smoothed sections of rock, dugways, historic cabins, corrals, trails, and inscriptions carved into rock, and the Hole-in-the-Rock and Outlaw Trails. It also describes landscape features such as the Bears Ears, Comb Ridge, Cedar Mesa, the Valley of the Gods, the Abajo Mountains, and the San Juan River, and paleontological resources such as the fossil remains of fishes, amphibians, reptiles, and mammals, as well as dinosaur trackways and traces of other terrestrial animals. Finally, it identifies several species, including animals like the porcupine, badger, and coyote; birds like the red-tailed hawk, Mexican spotted owl, American kestrel, and turkey vulture; and plants such as the Fremont cottonwood, Abajo daisy, western sandbar willow, and boxelder.

The Antiquities Act requires that any reservation of land as part of a monument be confined to the smallest area compatible with the proper care and management of the objects of historic or scientific interest to be protected. Determining the appropriate protective area involves examination of a number of factors, including the uniqueness and nature of the objects, the nature of the needed protection, and the protection provided by other laws.

Some of the objects Proclamation 9558 identifies are not unique to the monument, and some of the particular examples of these objects within the monument are not of significant scientific or historic interest. Moreover, many of the objects Proclamation 9558 identifies were not under threat of damage or destruction before designation such that they required a reservation of land to protect them. In fact, objects described in Proclamation 9558 were then—and still are—subject to Federal protections under existing laws and agency management designations. For example, more than 500,000 acres were already being managed to maintain, enhance, or protect their roadless character before they were designated as part of a national monument. Specifically, the BLM manages approximately 380,759 acres of lands

within the existing monument as Wilderness Study Areas, which the BLM is required by law to manage so as not to impair their suitability for future congressional designation as Wilderness. On lands managed by the USFS, 46,348 acres are part of the congressionally designated Dark Canyon Wilderness Area, which, under the 1964 Wilderness Act, 16 U.S.C. 1131–1136, and the Utah Wilderness Act of 1984, Public Law 98–428, the USFS must manage so as to maintain or enhance its wilderness character. Approximately 89,396 acres of the USFS lands are also included in 8 inventoried roadless areas, which are managed under the USFS's 2001 Roadless Rule so as to protect their wilderness character.

A host of laws enacted after the Antiquities Act provide specific protection for archaeological, historic, cultural, paleontological, and plant and animal resources and give authority to the BLM and USFS to condition permitted activities on Federal lands, whether within or outside a monument. These laws include the Archaeological Resources Protection Act of 1979, 16 U.S.C. 470aa–470mm, National Historic Preservation Act, 54 U.S.C. 300101 *et seq.*, Bald and Golden Eagle Protection Act, 16 U.S.C. 668–668d, Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.*, Federal Cave Resources Protection Act of 1988, 16 U.S.C. 4301 *et seq.*, Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 *et seq.*, Migratory Bird Treaty Act, 16 U.S.C. 703–712, National Forest Management Act, 16 U.S.C. 1600 *et seq.*, Native American Graves Protection and Repatriation Act of 1976, 25 U.S.C. 3001 *et seq.*, and Paleontological Resources Preservation Act, 16 U.S.C. 470aaa–470aaa–11. Of particular note, the Archaeological Resources Protection Act specifically protects archaeological resources from looting or other desecration and imposes criminal penalties for unauthorized excavation, removal, damage, alteration, or defacement of archaeological resources. Federal land management agencies can grant a permit authorizing excavation or removal, but only when undertaken for the purpose of furthering archaeological knowledge. The Paleontological Resources Preservation Act contains very similar provisions protecting paleontological resources. And the Migratory Bird Treaty Act and Endangered Species Act protect migratory birds and listed endangered and threatened species and their habitats. Moreover, the BLM and the USFS were already addressing many of the threats to objects identified in Proclamation 9558 in their governing land-use plans before designation of the monument.

Given the nature of the objects identified on the lands reserved by Proclamation 9558, the lack of a threat of damage or destruction to many of those objects, and the protection for those objects already provided by existing law and governing land-use plans, I find that the area of Federal land reserved in the Bears Ears National Monument established by Proclamation 9558 is not confined to the smallest area compatible with the proper care and management of those objects. The important objects of scientific or historic interest can instead be protected by a smaller and more appropriate reservation of 2 areas: Shash Jaa and Indian Creek. Revising the boundaries of the monument to cover these 2 areas will ensure that, in accordance with the Antiquities Act, it is no larger than necessary for the proper care and management of the objects to be protected within the monument.

The Shash Jaa area contains the heart of the national monument: the iconic twin buttes known as the Bears Ears that tower 2,000 feet above the surrounding landscape and are considered sacred to the Native American tribes that call this area their ancestral home. Many of the significant objects described by Proclamation 9558 can be found throughout the Shash Jaa area. Ancestral Puebloan occupation of the area began during the Basketmaker II period at least 2,500 years ago, and it left behind objects such as pit houses, storage pits, lithic scatters, campsites, rock shelters, pictographs, and baskets, as well as manos and metates for grinding corn. Occupation dating to the Basketmaker III period, from approximately 500 to 750 C.E., left additional evidence of maize- and bean-based agriculture, along with pottery, bows and arrows, pit houses, kivas, storage rooms, and dispersed villages.

New waves of human settlement occurred around 900 C.E., when the Pueblo I period gave rise to large villages near Comb Wash, and 1050 C.E., when inhabitants from the Pueblo II period built expansive and complex multi-family dwellings. Around 1150 C.E., the dawn of the Pueblo III period, the area's inhabitants increasingly sought shelter in cliff dwellings and left behind evidence of an era of unrest. Several centuries later, the Ute, Paiute, and Navajo came to occupy the area.

East of the Bears Ears is Arch Canyon, within which paleontologists have found numerous fossils from the Permian and Upper Permian eras. Cliff dwellings are hidden throughout the canyon, and the mouth of the canyon holds the fabled Arch Canyon ruin, which spans the Pueblo II and III periods and contains pictographs and petroglyphs ranging from the Archaic to the historic periods.

Just south of Arch Canyon are the north and south forks of Mule Canyon. Five-hundred feet deep, 5 miles long, and decorated with alternating layers of red and white sandstone, these 2 striking canyons contain shelter-cliff dwellings and other archaeological sites, including the scenic and accessible House on Fire Ruin, which includes differing masonry styles that indicate several episodes of construction and use.

Perched high on the open tablelands above the south fork of Mule Canyon are the Mule Canyon ruins, where visitors can see exposed masonry walls of ancient living quarters and a partially restored kiva. The deep canyons and towering mesas of the Shash Jáa area are full of similar sites, including rock art, remains of single-family dwellings, granaries, kivas, towers (including the Cave Towers), and large villages primarily from the Pueblo II and III periods, along with sites from the Basketmaker and Archaic periods.

The Shash Jáa area also includes Comb Ridge, a north-south trending monocline that originates near the boundary of the Manti-La Sal National Forest, ends near the San Juan River, and contains remnants from the region's thousands of years of human habitation, including cliff dwellings, granaries, kivas, ceremonial sites, and the Butler Wash ruin, a world-famous Ancestral Puebloan ruin with multiple rooms and kivas. Comb Ridge also includes world-class examples of ancient rock art, such as the Butler Wash Kachina Panel, a wall-sized mural of San Juan Anthropomorph figures that dates to the Basketmaker period and is considered to be one of the Southwest's most important petroglyph panels for understanding the daily life and rituals of the Basketmaker people. Significant fossil sites have also been discovered in Butler Wash.

Just north of upper Butler Wash, the aspen-filled Whiskers Draw contains a series of alcoves that have sheltered evidence of human habitation for thousands of years, including Cave 7, the site where Richard Wetherill, as part of the Hyde Expedition in 1893, first identified what we know today as the Basketmaker people. The nearby Milk Ranch Point is home to a rich concentration of kivas, granaries, dwellings, and other evidence that Pueblo I farmers used this area to cultivate corn, beans, and squash.

The Shash Jáa area also contains the Comb Ridge Fossil site, which includes a trackway created by a giant arthropod (*Diplichnites cuithensis*), the first recorded instance of such a trackway in Utah. Also, the diverse landscape of the Shash Jáa area provides habitat for the vast majority of plant and animal species described by Proclamation 9558.

Finally, the Shash Jáa area as described on the accompanying map includes 2 non-contiguous parcels of land that encompass the Moon House Ruin, an example of iconic Pueblo-decorated architecture, which was likely the last occupied site on Cedar Mesa, as well as Doll House Ruin, a fully intact and well-preserved single room granary that is associated with an extensive agricultural area on the mesa top. These significant ruins are important examples of cultural resource objects that should remain within the monument's boundaries.

The Indian Creek area likewise contains objects of significance described in Proclamation 9558. At its center is the broad Indian Creek Canyon, which is characterized by sheer red cliffs and spires of exposed and eroded layers of Navajo, Kayenta, Wingate, and Cedar Mesa sandstone, including the iconic North and South Six-Shooter Peaks.

Also located within the Indian Creek area is the Canyonlands Research Center. Spanning lands managed by the National Park Service, BLM, USFS, and private landowners, this unique partnership works to increase our understanding of the complex natural systems on the landscape, providing their custodians with information they need to adapt to the challenges of a changing Colorado Plateau.

Newspaper Rock, a popular attraction in the Indian Creek area, is a roadside rock art panel that has been listed on the National Register of Historic Places since 1976. This site displays a significant concentration of rock art from multiple periods, etched into Wingate sandstone. The older art is attributed to the Ancestral Puebloan people who inhabited this region for 2,000 years, while the more recent rock art is attributed to the Ute people who still live in the Four Corners area.

In addition to Newspaper Rock, the Indian Creek area contains numerous other significant rock art sites, including the distinctive and well-preserved petroglyphs in Shay Canyon. The area also provides opportunities for cultural and scientific research and paleontological study. Dinosaur tracks in the bottom of the Shay Canyon stream bed are a unique visual reminder of the area's distant past. Additional paleontological resources can be found throughout the Indian Creek area, including vertebrate and invertebrate fossils, primarily in the Chinle Formation. The Indian Creek area also includes 2 prominent mesas, Bridger Jack Mesa and Lavender Mesa, which are home to relict plant communities, predominantly composed of pinyon-juniper woodland, with small, interspersed sagebrush parks, that exist only on these isolated islands in the desert sea and are, generally, unaltered by humans. These mesas provide the opportunity for comparative studies of pinyon-juniper woodland and sagebrush communities in other parts of the Colorado Plateau. Additionally, the Indian Creek area includes the exposed Chinle Formation, known for abundant fossilized flora and fauna, including pelecypods, gastropods, arthropods, fishes, amphibians, and reptiles (including dinosaurs). Finally, the area is well known for vertebrate trackways, including tetrapod footprints.

Some of the existing monument's objects, or certain examples of those objects, are not within the monument's revised boundaries because they are adequately protected by existing law, designation, agency policy, or governing land-use plans. For example, although the modified boundaries do not include the San Juan River or the Valley of the Gods, both of those areas are protected by existing administratively designated Areas of Critical Environmental Concern. Plant and animal species such as the bighorn sheep, the Kachina daisy, the Utah night lizard, and the *Eucosma navajoensis* moth are protected by the Endangered Species Act and existing land-use plans and policies protecting special-status species. Additionally, some of the range of these species falls within existing Wilderness Areas and Wilderness Study Areas. Finally, although Hideout Canyon is likewise not included within the modified boundaries, it is generally not threatened and is partially within a Wilderness Study Area.

The areas described above are the smallest compatible with the protection of the important objects identified in Proclamation 9558. The modification of the Bears Ears National Monument will maintain and protect those objects and preserve the area's cultural, scientific, and historic legacy.

WHEREAS, Proclamation 9558 of December 28, 2016, designated the Bears Ears National Monument in the State of Utah and reserved approximately 1.35 million acres of Federal lands for the care and management of the Bears Ears buttes and other objects of historic and scientific interest identified therein; and

WHEREAS, many of the objects identified by Proclamation 9558 are otherwise protected by Federal law; and

WHEREAS, it is in the public interest to modify the boundaries of the monument to exclude from its designation and reservation approximately 1,150,860 acres of land that I find are unnecessary for the care and management of the objects to be protected within the monument; and

WHEREAS, the boundaries of the monument reservation should therefore be reduced to the smallest area compatible with the protection of the objects of scientific or historic interest as described above in this proclamation;

NOW, THEREFORE, I, DONALD J. TRUMP, President of the United States of America, by the authority vested in me by section 320301 of title 54, United States Code, hereby proclaim that the boundaries of the Bears Ears National Monument are hereby modified and reduced to those lands and interests in land owned or controlled by the Federal Government within the boundaries described on the accompanying map, which is attached to and forms a part of this proclamation. I hereby further proclaim that the modified monument areas identified on the accompanying map shall be known as the Indian Creek and Shash Jáa units of the monument, the latter of which shall include the Moon House and Doll House Ruins. These reserved Federal lands and interests in lands cumulatively encompass approximately 201,876 acres. The boundaries described on the accompanying map are confined to the smallest area compatible with the proper care and management of the objects to be protected. Any lands reserved by Proclamation 9558 not within the boundaries identified on the accompanying map are hereby excluded from the monument.

At 9:00 a.m., eastern standard time, on the date that is 60 days after the date of this proclamation, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law, the public and National Forest System lands excluded from the monument reservation shall be open to:

(1) entry, location, selection, sale, or other disposition under the public land laws and laws applicable to the U.S. Forest Service;

(2) disposition under all laws relating to mineral and geothermal leasing; and

(3) location, entry, and patent under the mining laws.

Appropriation of lands under the mining laws before the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law.

Nothing in this proclamation shall be construed to remove any lands from the Manti-La Sal National Forest or to otherwise revoke, modify, or affect any withdrawal, reservation, or appropriation, other than the one created by Proclamation 9558.

Nothing in this proclamation shall change the management of the areas designated and reserved by Proclamation 9558 that remain part of the monument in accordance with the terms of this proclamation, except as provided by the following 4 paragraphs:

In recognition of the importance of tribal participation to the care and management of the objects identified above, and to ensure that management decisions affecting the monument reflect tribal expertise and traditional and historical knowledge, Proclamation 9558 established a Commission to provide guidance and recommendations on the development and implementation of management plans and on management of the monument, and to partner with Federal agencies by making continuing contributions to inform decisions regarding the management of the monument. In order to

ensure that the full range of tribal expertise and traditional historical knowledge is included in such guidance and recommendations, paragraph 29 of Proclamation 9558 is hereby revised to provide that the Bears Ears Commission shall be known as the Shash Jaa Commission, shall apply only to the Shash Jaa unit as described herein, and shall also include the elected officer of the San Juan County Commission representing District 3 acting in that officer's official capacity.

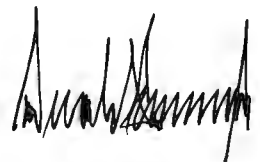
Proclamation 9558 is hereby revised to clarify that, pending preparation of the transportation plan required by paragraph 34 thereof, the Secretaries of the Interior and Agriculture may allow motorized and non-mechanized vehicle use on roads and trails designated for such use immediately before the issuance of Proclamation 9558 and maintain roads and trails for such use.

Paragraph 35 of Proclamation 9558 governing livestock grazing in the monument is hereby revised to read as follows: "Nothing in this proclamation shall be deemed to affect authorizations for livestock grazing, or administration thereof, on Federal lands within the monument. Livestock grazing within the monument shall continue to be governed by laws and regulations other than this proclamation."

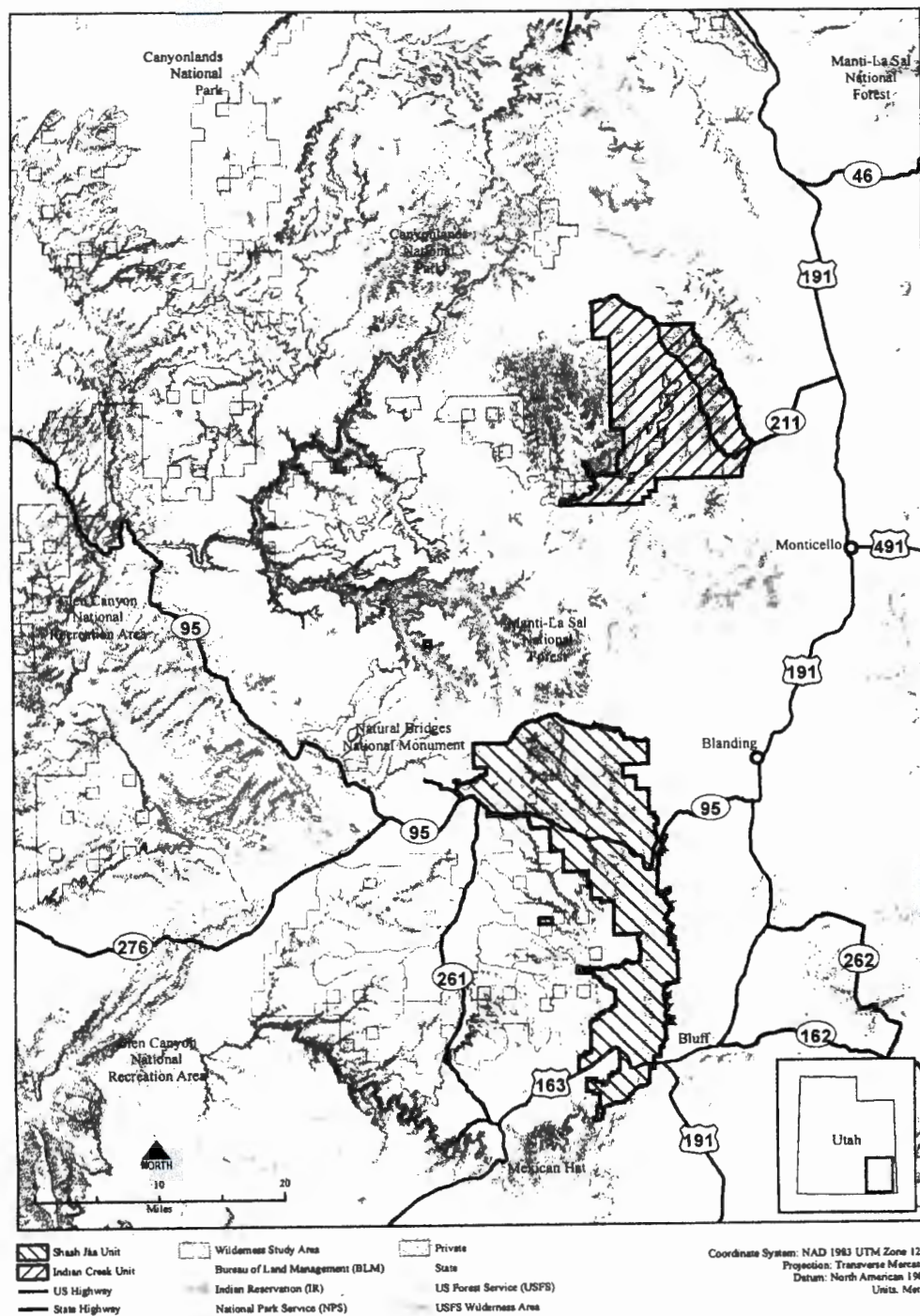
Proclamation 9558 is amended to clarify that, consistent with the care and management of the objects identified above, the Secretaries of the Interior and Agriculture may authorize ecological restoration and active vegetation management activities in the monument.

If any provision of this proclamation, including its application to a particular parcel of land, is held to be invalid, the remainder of this proclamation and its application to other parcels of land shall not be affected thereby.

IN WITNESS WHEREOF, I have hereunto set my hand this fourth day of December, in the year of our Lord two thousand seventeen, and of the Independence of the United States of America the two hundred and forty-second.



Bears Ears National Monument Boundary Modification



[FR Doc. 2017-26709

Filed 12-7-17; 11:15 am]

Billing code 4310-10-C



I

115TH CONGRESS
1ST SESSION

H. R. 4532

To create the first Tribally managed national monument, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 4, 2017

Mr. CURTIS (for himself, Mr. BISHOP of Utah, Mr. STEWART, and Mrs. LOVE) introduced the following bill; which was referred to the Committee on Natural Resources

A BILL

To create the first Tribally managed national monument,
and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Shash Jáa National
5 Monument and Indian Creek National Monument Act".

6 **SEC. 2. TABLE OF CONTENTS.**

7 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Withdrawal.
- Sec. 4. Proclamation termination.
- Sec. 5. Authorization of appropriations.

TITLE I—SHASH JÁÁ NATIONAL MONUMENT

- Sec. 101. Establishment and purpose.
- Sec. 102. Map and legal description.
- Sec. 103. Administration of Shash Jáa National Monument.
- Sec. 104. General provisions.
- Sec. 105. Shash Jáa Tribal Management Council.
- Sec. 106. Bears Ears Commission.
- Sec. 107. Archaeological resources protection.
- Sec. 108. Enhanced resource protection capabilities in the Shash Jáa National Monument.
- Sec. 109. Scientific research to further purpose of Shash Jáa National Monument.
- Sec. 110. Federal land manager adherence.

TITLE II—INDIAN CREEK NATIONAL MONUMENT

- Sec. 201. Establishment and purpose.
- Sec. 202. Map and legal description.
- Sec. 203. Administration of Indian Creek National Monument.
- Sec. 204. General provisions.
- Sec. 205. Indian Creek Management Council.
- Sec. 206. Bears Ears Commission.
- Sec. 207. Archaeological resources protection.
- Sec. 208. Enhanced resource protection capabilities in the Indian Creek National Monument.
- Sec. 209. Scientific research to further purpose of Indian Creek National Monument.
- Sec. 210. Federal land manager adherence.

TITLE III—UTAH PUBLIC SCHOOL TRUST LAND CERTAINTY

- Sec. 301. Definitions.
- Sec. 302. Exchange of land to benefit the Utah Public School Trust.
- Sec. 303. Equal value land exchanges and appraisals.

1 **SEC. 3. WITHDRAWAL.**

2 Subject to valid existing rights, all Federal land and
 3 interests in land within the exterior boundaries of the
 4 Bears Ears National Monument declared under Presi-
 5 dential Proclamation 9558, dated December 28, 2016, is
 6 withdrawn from—

7 (1) all forms of entry, appropriation, and dis-
 8 posal under the public land laws;

9 (2) location, entry, and patent under the mining
 10 laws; and

1 (3) operation of the mineral leasing, mineral
2 materials, and geothermal leasing laws.

3 **SEC. 4. PROCLAMATION TERMINATION.**

4 Presidential Proclamation 9558, dated December 28,
5 2016, and issued under chapter 3203 of title 54, United
6 States Code, is hereby declared null and void.

7 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

8 There is authorized to be appropriated to carry out
9 this Act \$1,500,000 for each of fiscal years 2018 through
10 2024.

11 **TITLE I—SHASH JÁA NATIONAL**
12 **MONUMENT**

13 **SEC. 101. ESTABLISHMENT AND PURPOSE.**

14 (a) **ESTABLISHMENT.**—Subject to the valid existing
15 rights, the Federal land comprising approximately
16 142,337 acres, identified as “Shash Jáa National Unit”
17 and generally depicted on the map entitled “Bears Ears
18 National Monument Boundary Modification”, including
19 Moon House Ruin and Doll House Ruin, is hereby estab-
20 lished as the “Shash Jáa National Monument”.

21 (b) **PURPOSE.**—The purpose of the Shash Jáa Na-
22 tional Monument shall be to protect, conserve, and en-
23 hance the unique and nationally important historic, sa-
24 cred, cultural, scientific, scenic, archaeological, natural,

1 and educational resources of the Shash Jáa National
2 Monument.

3 **SEC. 102. MAP AND LEGAL DESCRIPTION.**

4 (a) IN GENERAL.—As soon as practicable after the
5 date of the enactment of this Act, the Secretary of the
6 Interior and the Secretary of Agriculture shall submit to
7 the Committee on Natural Resources of the House of Rep-
8 resentatives and the Committee on Energy and Natural
9 Resources and the Committee on Agriculture, Nutrition,
10 and Forestry of the Senate a map and legal description
11 of the Shash Jáa National Monument established by sec-
12 tion 101.

13 (b) FORCE AND EFFECT.—The map and legal de-
14 scription submitted under this section shall have the same
15 force and effect as if included in this title, except that
16 the Secretary of the Interior and Secretary of Agriculture
17 may make minor modifications of any clerical or typo-
18 graphical errors in the map or legal description provided
19 these changes are first reported to the State of Utah, San
20 Juan County, Utah, and the Shash Jáa Tribal Manage-
21 ment Council.

22 (c) PUBLIC AVAILABILITY.—A copy of the map and
23 legal description shall be on file and available for public
24 inspection in the appropriate field offices of the Bureau

1 of Indian Affairs, the Bureau of Land Management, and
2 the Forest Service.

3 **SEC. 103. ADMINISTRATION OF SHASH JÁA NATIONAL**
4 **MONUMENT.**

5 (a) IN GENERAL.—In accordance with this title, the
6 Federal Land Policy and Management Act of 1976 (43
7 U.S.C. 1701 et seq.), and other applicable laws and regu-
8 lations, the Shash Jáa Tribal Management Council shall
9 manage the Shash Jáa National Monument in a manner
10 that—

11 (1) furthers the purpose of the Monument;

12 (2) encourages cooperative and innovative man-
13 agement practices between resource managers, pri-
14 vate landowners, and the public; and

15 (3) recognizes and maintains historic Tribal
16 uses, including hunting, gathering, wood cutting,
17 and cultural and religious uses.

18 (b) MANAGEMENT PLAN.—

19 (1) PLAN REQUIRED.—As soon as practicable
20 after the date of the enactment of this Act, con-
21 sistent with the purpose of the monument, the
22 Shash Jáa Tribal Management Council shall develop
23 a comprehensive plan for the long-term management
24 of the Shash Jáa National Monument. The plan may
25 be updated or amended by the Shash Jáa Tribal

1 Management Council in response to changing cir-
2 cumstances or as determined by the Shash Jáa Trib-
3 al Management Council.

4 (2) CONSULTATION.—In developing the man-
5 agement plan, the Shash Jáa Tribal Management
6 Council shall consult with appropriate State and
7 local entities, the Bears Ears Commission, affected
8 Indian Tribes, and the public. In particular, the
9 Shash Jáa Tribal Management Council shall solicit
10 information and proposals as needed to integrate
11 Native American traditional and historical knowl-
12 edge and special expertise into the management plan
13 of the Shash Jáa National Monument. Such infor-
14 mation and proposals may include—

15 (A) protections for and use of sacred sites;

16 (B) cultural and educational programming;

17 (C) identification of plants, animals, and
18 special resources;

19 (D) identification of traditional uses, such
20 as gathering firewood; and

21 (E) historical and archaeological resources.

22 (3) REJECTION OF RECOMMENDATIONS.—If the
23 Shash Jáa Tribal Management Council does not in-
24 corporate written recommendations submitted by
25 State or local entities, the Bears Ears Commission,

1 or affected Indian Tribes into the management plan,
2 the Shash Jáa Tribal Management Council shall
3 submit a written explanation, not less than 30 days
4 before the effective date of the management plan, to
5 the Committee on Natural Resources of the House
6 of Representatives, the Committee on Energy and
7 Natural Resources of the Senate, and the Committee
8 on Agriculture, Nutrition, and Forestry of the Sen-
9 ate outlining the reasons for rejecting the rec-
10 ommendations.

11 (4) RELATIONSHIP WITH BEARS EARS COMMIS-
12 SION.—In addition to the consultation under para-
13 graph (2), the Shash Jáa Tribal Management Coun-
14 cil shall—

15 (A) carefully and fully consider integrating
16 the traditional and historical knowledge and
17 special expertise of the Bears Ears Commission
18 into the management plan of the Shash Jáa
19 National Monument; and

20 (B) not less than 45 days before the effec-
21 tive date of the management plan for the Shash
22 Jáa National Monument, provide the Bears
23 Ears Commission with a written explanation re-
24 garding any written recommendations from the
25 Bears Ears Commission that are not integrated

1 into the management plan for the Shash Jáa
2 National Monument.

3 (5) ELEMENTS INCLUDED.—The management
4 plan developed under this subsection shall—

5 (A) allow only those uses of the Shash Jáa
6 National Monument that are determined by the
7 Council to be consistent with the purpose of the
8 Monument;

9 (B) be consistent with the Native Amer-
10 ican Graves Protection and Repatriation Act
11 (25 U.S.C. 3001 et seq.), the American Indian
12 Religious Freedom Act (42 U.S.C. 1996 et
13 seq.), Executive Order 13007, division A of sub-
14 title III of title 54, United States Code (for-
15 merly the National Historic Preservation Act),
16 and the Archaeological Resources Protection
17 Act of 1979 (16 U.S.C. 470aa et seq.) to pro-
18 tect and preserve and minimize disturbance to
19 covered sites and properties, including human
20 remains;

21 (C) integrate Native knowledge (as defined
22 in section 219.19 of title 36, Code of Federal
23 Regulations) to improve social, economic, and
24 ecological sustainability in accordance with For-
25 est Service regulations set forth in section 219

1 of title 36, Code of Federal Regulations, or suc-
2 cessor regulations;

3 (D) allow for the continued use and access
4 (including by motorized vehicle) of the Shash
5 Jáa National Monument—

6 (i) for traditional and cultural cere-
7 monies;

8 (ii) as a source of traditional plants
9 and other materials for subsistence and
10 other uses in accordance with Federal law;
11 and

12 (iii) for any other activities deemed
13 appropriate, in consultation with the Shash
14 Jáa Archaeological Resources Protection
15 Unit;

16 (E) allow grazing where grazing was estab-
17 lished before the date of the enactment of this
18 Act—

19 (i) subject to such reasonable regula-
20 tions, policies, and practices as the Shash
21 Jáa Tribal Management Council deems
22 necessary;

23 (ii) subject to all applicable laws; and

24 (iii) with adjustments only allowed in
25 the numbers of livestock allowed as a re-

1 sult of revisions in the normal grazing and
2 land management planning and policy set-
3 ting process;

4 (F) allow commercial recreation activities
5 within the Shash Jáa National Monument in
6 accordance with this title and all other applica-
7 ble laws and regulations; and

8 (G) allow wildland fire operations in the
9 Shash Jáa National Monument consistent with
10 the purpose of the Shash Jáa National Monu-
11 ment.

12 (c) DONATIONS.—The Shash Jáa Tribal Manage-
13 ment Council may accept, hold, administer, and use gifts,
14 bequests, donations of funds or real property within the
15 boundaries of the Shash Jáa National Monument, and de-
16 vices (including labor and services) to further the purposes
17 of the Shash Jáa National Monument and to administer
18 the Monument. Donations accepted under this subsection
19 shall be considered as a gift or bequest to or for the use
20 of the United States.

21 **SEC. 104. GENERAL PROVISIONS.**

22 (a) WITHDRAWALS.—Subject to valid existing rights,
23 all Federal land and interests in land that is acquired by
24 the United States within the Shash Jáa National Monu-

1 ment after the date of the enactment of this Act, is with-
2 drawn from—

3 (1) all forms of entry, appropriation or disposal
4 under the public land laws;

5 (2) location, entry, and patent under the mining
6 laws; and

7 (3) operation of the mineral leasing, mineral
8 materials, and geothermal leasing laws.

9 (b) LAND ACQUISITION.—

10 (1) IN GENERAL.—The Secretary of the Inte-
11 rior or the Secretary of Agriculture, as appropriate,
12 may acquire lands or interest in lands within the ex-
13 terior boundaries of the Shash Jáa National Monu-
14 ment by donation, purchase with donated or appro-
15 priated funds, exchange, or transfer from a Federal
16 agency only with the concurrence of the Shash Jáa
17 Tribal Management Council.

18 (2) NO EMINENT DOMAIN OR CONDEMNATION.—The Secretary of the Interior and the Sec-
19 retary of Agriculture may not use eminent domain
20 or condemnation to acquire land or interest in land
21 within the exterior boundary of the Shash Jáa Na-
22 tional Monument.
23

24 (3) INCORPORATION IN NATIONAL MONU-
25 MENT.—Any land or interest in land located inside

1 the exterior boundary of the Shash Jáa National
2 Monument that is acquired by the United States
3 after the date of the enactment of this Act shall be
4 added to and administered as part of the Shash Jáa
5 National Monument.

6 (c) EXCLUSION OF NON-FEDERAL LAND.—The
7 Shash Jáa National Monument includes only Federal land
8 and interests in Federal land and does not include private
9 property or other non-Federal land and interests in land.
10 The management plan developed and implemented under
11 this title shall not apply to private property or non-Federal
12 land or interests in land.

13 (d) WATER RIGHTS.—Nothing in this title—

14 (1) affects the use or allocation, in existence on
15 the date of the enactment of this Act, of any water,
16 water right, or interest in water;

17 (2) affects any vested absolute or decreed condi-
18 tional water right in existence on the date of the en-
19 actment of this Act, including any water right held
20 by the United States;

21 (3) affects any claims or rights to water not yet
22 asserted or finally determined;

23 (4) affects any interstate water compact in ex-
24 istence on the date of the enactment of this Act;

1 (5) authorizes or imposes any new reserved
2 Federal water rights; or

3 (6) relinquishes or reduces any water rights re-
4 served or appropriated by the United States in the
5 State of Utah on or before the date of the enactment
6 of this Act.

7 (e) FISH AND WILDLIFE.—Nothing in this title af-
8 fects the jurisdiction of the State of Utah with respect
9 to the management of fish and wildlife in the State.

10 (f) EMERGENCY RESPONSE.—Nothing in this title al-
11 ters the authority or responsibility of any party with re-
12 spect to emergency response activities within the Shash
13 Jáa National Monument, including wildfire response.

14 (g) OVERFLIGHTS.—Nothing in this title shall pre-
15 clude overflights of military aircraft, the designation of
16 special-use airspace, or the use or establishment of mili-
17 tary flight training routes over the Shash Jáa National
18 Monument.

19 (h) TRIBAL RIGHTS.—Nothing in this title affects the
20 rights of any federally recognized Indian Tribe or any
21 treaty right.

22 **SEC. 105. SHASH JÁA TRIBAL MANAGEMENT COUNCIL.**

23 (a) DUTIES.—The Shash Jáa Tribal Management
24 Council shall—

1 (1) develop and implement the comprehensive
2 management plan required by section 103; and

3 (2) regularly and meaningfully engage with the
4 Bears Ears Commission regarding the management
5 of the Shash Jáa National Monument.

6 (b) MEMBERSHIP.—The Shash Jáa Tribal Manage-
7 ment Council shall be composed of the following members
8 appointed not later than 180 days after the date of the
9 enactment of this Act by the President:

10 (1) One individual from the Department of the
11 Interior or the Department of Agriculture.

12 (2) Six individuals, in consultation with the
13 Congressional delegation from the State of Utah,
14 who shall represent the following:

15 (A) Three who are members of the Navajo
16 Nation, one of whom must represent the Aneth
17 Chapter of the Navajo Nation.

18 (B) One who is a member of the White
19 Mesa Utes of the Ute Mountain Ute Tribe.

20 (C) Two who are members of the San
21 Juan County, Utah, Board of Commissioners.

22 (c) QUALIFICATIONS.—Of the representatives ap-
23 pointed by the President under subsection (b)(2)—

24 (1) none shall be employees of the Federal Gov-
25 ernment;

1 (2) all shall be residents of the State of Utah.

2 (d) TERMS.—The President shall appoint the mem-
3 bers of the Shash Jáa Tribal Management Council under
4 subsection (b)(2) for a term of five years, except that the
5 President shall designate staggered terms for the members
6 initially appointed to the Shash Jáa Tribal Management
7 Council. The President may not reappoint a member to
8 more than three consecutive terms.

9 (e) VACANCIES.—The President shall fill Presi-
10 dentially appointed vacancies on the Shash Jáa Tribal
11 Management Council as soon as practicable after the va-
12 cancy has occurred.

13 (f) COMPENSATION.—Non-Federal members of the
14 Shash Jáa Tribal Management Council shall serve without
15 pay, except for reasonable travel expenses, including per
16 diem in lieu of subsistence, at the rate authorized for em-
17 ployees of agencies under subchapter I of chapter 57 of
18 title 5, United States Code, while away from their homes
19 or regular places of business in the performance of duties
20 for the Council.

21 (g) CHAIR.—The members of the Shash Jáa Tribal
22 Management Council shall select the chair of the Shash
23 Jáa Tribal Management Council from one of the Presi-
24 dentially appointed representatives under subsection
25 (b)(2) for a term beginning on the date of selection, and

1 ending in five years or until the member's term of office
2 expires, whichever occurs first.

3 (h) ANNUAL SHASH JÁA TRIBAL MANAGEMENT
4 COUNCIL REPORT.—

5 (1) PUBLIC REPORT PUBLICATION.—Not later
6 than September 30 of each year, the Shash Jáa
7 Tribal Management Council shall post a public re-
8 port on the Forest Service, Bureau of Land Manage-
9 ment, and any Shash Jáa National Monument-affili-
10 ated websites maintained by the Shash Jáa Tribal
11 Management Council. If the Shash Jáa Tribal Man-
12 agement Council cannot meet the September 30
13 deadline in any year, on September 30 the Chair of
14 the Shash Jáa Tribal Management Council shall
15 publicly post on the websites the reasons for such
16 delay and the date on which the submission of the
17 report is anticipated.

18 (2) CONTENTS.—The report required by para-
19 graph (1) shall include—

20 (A) a description of the actions of the
21 Shash Jáa Tribal Management Council to de-
22 velop or implement the management plan for
23 the Shash Jáa National Monument;

24 (B) the recommendations made by the
25 State, local entities, the Bears Ears Commis-

1 sion, the Shash Jáa Archaeological Resources
2 Protection Unit, affected Indian Tribes, and the
3 public to the Shash Jáa Tribal Management
4 Council during the preceding year and actions
5 taken by the Shash Jáa Tribal Management
6 Council as a result of the recommendations;
7 and

8 (C) an accounting of the expenses of the
9 Shash Jáa Tribal Management Council.

10 (i) STAFF ASSISTANCE.—The Shash Jáa Tribal Man-
11 agement Council may request administrative staff assist-
12 ance from Federal employees under the jurisdiction of the
13 Secretary of the Interior or the Secretary of Agriculture.

14 (j) MEETINGS.—

15 (1) FREQUENCY.—The Shash Jáa Tribal Man-
16 agement Council shall meet at the call of the Chair
17 or a majority of the members. Meetings shall be held
18 no less than once each calendar year. A majority
19 must be present to constitute a quorum to con-
20 ducting an official meeting of the Shash Jáa Tribal
21 Management Council.

22 (2) ANNOUNCEMENT; OPEN MEETINGS.—All
23 meetings of the Shash Jáa Tribal Management
24 Council shall be announced not less than one week

1 in advance in publications of general circulation and
2 shall be open to the public.

3 **SEC. 106. BEARS EARS COMMISSION.**

4 (a) **ESTABLISHMENT.**—There is established a Bears
5 Ears Commission with the same membership, responsibil-
6 ities, and duties as that established under Presidential
7 Proclamation 9558, dated December 28, 2016.

8 (b) **DUTIES.**—In addition to the duties described in
9 subsection (a), the Bears Ears Commission shall provide
10 guidance and recommendations to the Shash Jáa Tribal
11 Management Council and the Shash Jáa Archaeological
12 Resources Protection Unit regarding the development and
13 implementation of the management plan required under
14 section 103(b).

15 **SEC. 107. ARCHAEOLOGICAL RESOURCES PROTECTION.**

16 (a) **SHASH JÁA ARCHAEOLOGICAL RESOURCES PRO-**
17 **TECTION UNIT.**—

18 (1) **ESTABLISHMENT.**—The Shash Jáa Tribal
19 Management Council shall establish and maintain a
20 Shash Jáa Archaeological Resources Protection Unit
21 to provide technical and other specific assistance to
22 help protect, conserve, and enhance the unique and
23 nationally important historic, sacred, cultural, sci-
24 entific, scenic, archaeological, natural, and edu-

1 educational resources in the Shash Jáa National Monu-
2 ment.

3 (2) MEMBERSHIP.—Not later than 210 days
4 after the date of the enactment of this Act, the
5 Shash Jáa Tribal Management Council shall appoint
6 9 individuals to the Shash Jáa Archaeological Re-
7 sources Protection Unit as follows:

8 (A) Five individuals with expertise in pre-
9 serving Tribal relics, artifacts, or other sacred
10 Tribal sites and objects.

11 (B) One individual with expertise in the
12 preservation of archaeological resources in fed-
13 erally protected areas.

14 (C) One individual with expertise in pro-
15 tecting scenic and natural resources.

16 (D) One individual representing a scientific
17 or educational institution in the State of Utah.

18 (E) One individual with historic preserva-
19 tion expertise in the State of Utah.

20 (3) DUTIES.—The Shash Jáa Archaeological
21 Resources Protection Unit shall—

22 (A) advise the Shash Jáa Tribal Manage-
23 ment Council on ways to protect, conserve, and
24 enhance the unique and nationally important
25 historic, sacred, cultural, scientific, scenic, ar-

1 chaeological, natural, and educational resources
2 in the Shash Jáa National Monument;

3 (B) recommend educational materials and
4 signage informing visitors of the unique and na-
5 tionally important historic, sacred, cultural, sci-
6 entific, scenic, archaeological, natural, and edu-
7 cational resources in the Shash Jáa National
8 Monument;

9 (C) recommend educational materials or
10 signage to prevent the destruction, degradation,
11 vandalism, or looting of sites within the Shash
12 Jáa National Monument; and

13 (D) not later than 60 days after its estab-
14 lishment under paragraph (2), submit to the
15 Shash Jáa Tribal Management Council infor-
16 mation regarding—

17 (i) sites located within the Shash Jáa
18 National Monument at high risk of de-
19 struction, degradation, vandalism, or
20 looting;

21 (ii) specific actions to eliminate, pre-
22 vent, or minimize destruction, degradation,
23 vandalism, and looting within Shash Jáa
24 National Monument; and

(iii) suggestions for additional administrative or other actions to help eliminate, prevent, or minimize destruction, degradation, vandalism, or looting within Shash Jáa National Monument.

(4) TERMS.—

(A) IN GENERAL.—Members of the Shash Jáa Archaeological Resources Protection Unit shall serve a term of 5 years beginning on the date of appointment, except that the Shash Jáa Tribal Management Council shall designate staggered terms for the members initially appointed to Shash Jáa Archaeological Resources Protection Unit.

(B) VACANCIES.—The Shash Jáa Tribal Management Council shall make appointments to fill vacancies on the Shash Jáa Archaeological Resources Protection Unit as soon as practicable after the vacancy has occurred.

(C) COMPENSATION.—Members of the Shash Jáa Archaeological Resources Protection Unit shall serve without pay, except for reasonable travel expenses, including per diem in lieu of subsistence, at the rate authorized for employees of agencies under subchapter I of chap-

1 ter 57 of title 5, United States Code, while
2 away from their homes or regular places of
3 business in the performance of duties for the
4 Unit.

5 (D) STAFF ASSISTANCE.—The Shash Jáa
6 Archaeological Resources Protection Unit may
7 request administrative staff assistance from
8 Federal employees under the jurisdiction of the
9 Secretary of the Interior or the Secretary of
10 Agriculture or State employees under the juris-
11 diction of the State of Utah.

12 (E) MEETINGS.—The Shash Jáa Archae-
13 ological Resources Protection Unit shall meet at
14 the call of the Shash Jáa Tribal Management
15 Council or a majority of its members. Meetings
16 shall be held not less than once per calendar
17 year. A majority must be present to constitute
18 a quorum for the purpose of conducting an offi-
19 cial meeting of the Shash Jáa Archaeological
20 Resources Protection Unit.

21 **SEC. 108. ENHANCED RESOURCE PROTECTION CAPABILI-**
22 **TIES IN THE SHASH JÁA NATIONAL MONU-**
23 **MENT.**

24 (a) ENHANCED ENFORCEMENT CAPABILITY.—

1 (1) ENFORCEMENT.—The Secretary of the In-
2 terior and the Secretary of Agriculture shall assign
3 not less than 10 law enforcement personnel to pro-
4 tect the unique and nationally important historic, sa-
5 cred, cultural, scientific, scenic, archaeological, nat-
6 ural, and educational resources of Shash Jáa Na-
7 tional Monument and its surrounding area, con-
8 sistent with the management plan developed under
9 section 103(b).

10 (2) PLAN COMPLIANCE.—The Secretary of the
11 Interior and the Secretary of Agriculture shall each
12 ensure the law enforcement personnel perform the
13 duties under paragraph (1) consistent with the man-
14 agement plan developed under section 103(b).

15 (b) MEMORANDA OF UNDERSTANDING.—The Sec-
16 retary of the Interior and the Secretary of Agriculture
17 shall each enter into memoranda of understanding or co-
18 operative agreements with local, State, or Tribal law en-
19 forcement entities to perform the duties described in sub-
20 section (a)(1).

21 **SEC. 109. SCIENTIFIC RESEARCH TO FURTHER PURPOSE**
22 **OF SHASH JÁA NATIONAL MONUMENT.**

23 The Secretary of the Interior and the Secretary of
24 Agriculture may enter into memoranda of understanding
25 or cooperative agreements with educational institutions or

1 other entities with expertise in archaeological, historical,
2 or natural science fields to conduct scientific research in
3 the Shash Jáa National Monument to aid in the develop-
4 ment or implementation of the management plan required
5 in section 103(b).

6 **SEC. 110. FEDERAL LAND MANAGER ADHERENCE.**

7 Federal land managers employed by the Bureau of
8 Land Management or the Forest Service and working in
9 the Shash Jáa National Monument shall adhere to the
10 management plan created by the Shash Jáa Tribal Man-
11 agement Council under section 103(b).

12 **TITLE II—INDIAN CREEK**
13 **NATIONAL MONUMENT**

14 **SEC. 201. ESTABLISHMENT AND PURPOSE.**

15 (a) ESTABLISHMENT.—Subject to valid existing
16 rights, the Federal land comprising approximately 86,447
17 acres, identified as “Indian Creek Unit” and generally de-
18 picted on the map entitled “Bears Ears National Monu-
19 ment Boundary Modification” is hereby established as the
20 “Indian Creek National Monument”.

21 (b) PURPOSE.—The purpose of the Indian Creek Na-
22 tional Monument shall be to protect, conserve, and en-
23 hance the unique and nationally important recreational,
24 historic, sacred, cultural, scientific, scenic, archaeological,

1 natural, and educational resources of the Indian Creek
2 National Monument.

3 **SEC. 202. MAP AND LEGAL DESCRIPTION.**

4 (a) **IN GENERAL.**—As soon as practicable after the
5 date of the enactment of this Act, the Secretary of the
6 Interior and the Secretary of Agriculture shall submit to
7 the Committee on Natural Resources of the House of Rep-
8 resentatives and the Committee on Energy and Natural
9 Resources and the Committee on Agriculture, Nutrition,
10 and Forestry of the Senate a map and legal description
11 of the Indian Creek National Monument established by
12 section 201.

13 (b) **FORCE AND EFFECT.**—The map and legal de-
14 scription submitted under this section shall have the same
15 force and effect as if included in this title, except that
16 the Secretary of the Interior and Secretary of Agriculture
17 may make minor modifications of any clerical or typo-
18 graphical errors in the map or legal description provided
19 these changes are first reported to the State of Utah, San
20 Juan County, Utah, and the Indian Creek Management
21 Council.

22 (c) **PUBLIC AVAILABILITY.**—A copy of the map and
23 legal description shall be on file and available for public
24 inspection in the appropriate field offices of the Bureau

1 of Indian Affairs, the Bureau of Land Management, and
2 the Forest Service.

3 **SEC. 203. ADMINISTRATION OF INDIAN CREEK NATIONAL**
4 **MONUMENT.**

5 (a) **IN GENERAL.**—In accordance with this title, the
6 Federal Land Policy and Management Act of 1976 (43
7 U.S.C. 1701 et seq.), and other applicable laws and regu-
8 lations, the Indian Creek Management Council shall man-
9 age the Indian Creek National Monument in a manner
10 that—

11 (1) furthers the purpose of the Monument;

12 (2) encourages cooperative and innovative man-
13 agement practices between resource managers, pri-
14 vate landowners, and the public; and

15 (3) recognizes and maintains historic uses, in-
16 cluding recreation, hunting, gathering, wood cutting,
17 and cultural and religious uses.

18 (b) **MANAGEMENT PLAN.**—

19 (1) **PLAN REQUIRED.**—As soon as practicable
20 after the date of the enactment of this Act, con-
21 sistent with the purpose of the monument, the In-
22 dian Creek Management Council shall develop a
23 comprehensive plan for the long-term management
24 of the Indian Creek National Monument. The plan
25 may be updated or amended by the Indian Creek

1 fected Indian Tribes into the management plan, the
2 Indian Creek Management Council shall submit a
3 written explanation, not less than 30 days before the
4 effective date of the management plan, to the Com-
5 mittee on Natural Resources of the House of Rep-
6 resentatives, the Committee on Energy and Natural
7 Resources of the Senate, and the Committee on Ag-
8 riculture, Nutrition, and Forestry of the Senate out-
9 lining the reasons for rejecting the recommenda-
10 tions.

11 (4) RELATIONSHIP WITH BEARS EARS COMMIS-
12 SION.—In addition to the consultation under para-
13 graph (2), the Indian Creek Management Council
14 shall—

15 (A) carefully and fully consider integrating
16 the traditional and historical knowledge and
17 special expertise of the Bears Ears Commission
18 into the management plan of the Indian Creek
19 National Monument; and

20 (B) not less than 45 days before the effec-
21 tive date of the management plan for the In-
22 dian Creek National Monument, provide the
23 Bears Ears Commission with a written expla-
24 nation regarding any written recommendations
25 from the Bears Ears Commission that are not

1 Management Council in response to changing cir-
2 cumstances or as determined by the Indian Creek
3 Management Council.

4 (2) CONSULTATION.—In developing the man-
5 agement plan, the Indian Creek Management Coun-
6 cil shall consult with appropriate State and local en-
7 tities, the Bears Ears Commission, affected Indian
8 Tribes, and the public. In particular, the Indian
9 Creek Management Council shall solicit information
10 and proposals as needed to integrate Native Amer-
11 ican traditional and historical knowledge and special
12 expertise into the management plan of the Indian
13 Creek National Monument. Such information and
14 proposals may include—

15 (A) protections for and use of sacred sites;

16 (B) cultural and educational programming;

17 (C) identification of plants, animals, and
18 special resources;

19 (D) identification of traditional uses, such
20 as gathering firewood; and

21 (E) historical and archaeological resources.

22 (3) REJECTION OF RECOMMENDATIONS.—If the
23 Indian Creek Management Council does not incor-
24 porate written recommendations submitted by State
25 or local entities, the Bears Ears Commission, or af-

1 integrated into the management plan for the
2 Indian Creek National Monument.

3 (5) ELEMENTS INCLUDED.—The management
4 plan developed under this subsection shall—

5 (A) allow only those uses of the Indian
6 Creek National Monument that are determined
7 by the Council to be consistent with the purpose
8 of the Monument;

9 (B) be consistent with the Native Amer-
10 ican Graves Protection and Repatriation Act
11 (25 U.S.C. 3001 et seq.), the American Indian
12 Religious Freedom Act (42 U.S.C. 1996 et
13 seq.), Executive Order 13007, division A of sub-
14 title III of title 54, United States Code (for-
15 merly the National Historic Preservation Act),
16 and the Archaeological Resources Protection
17 Act of 1979 (16 U.S.C. 470aa et seq.) to pro-
18 tect and preserve and minimize disturbance to
19 covered sites and properties, including human
20 remains;

21 (C) integrate Native knowledge (as defined
22 in section 219.19 of title 36, Code of Federal
23 Regulations) to improve social, economic, and
24 ecological sustainability in accordance with For-
25 est Service regulations set forth in section 219

1 of title 36, Code of Federal Regulations, or suc-
2 cessor regulations;

3 (D) allow for the continued use and access
4 (including by motorized vehicle) of the Indian
5 Creek National Monument—

6 (i) for traditional and cultural cere-
7 monies;

8 (ii) as a source of traditional plants
9 and other materials for subsistence and
10 other uses in accordance with Federal law;

11 (iii) for recreational access; and

12 (iv) for any other activities deemed
13 appropriate, in consultation with the In-
14 dian Creek Archaeological Resources Pro-
15 tection Unit;

16 (E) allow grazing where grazing was estab-
17 lished before the date of the enactment of this
18 Act—

19 (i) subject to such reasonable regula-
20 tions, policies, and practices as the Indian
21 Creek Management Council deems nec-
22 essary;

23 (ii) subject to all applicable laws; and

24 (iii) with adjustments only allowed in
25 the numbers of livestock allowed as a re-

1 sult of revisions in the normal grazing and
2 land management planning and policy set-
3 ting process;

4 (F) allow commercial recreation activities
5 within the Indian Creek National Monument in
6 accordance with this title and all other applica-
7 ble laws and regulations; and

8 (G) allow wildland fire operations in the
9 Indian Creek National Monument consistent
10 with the purpose of the Indian Creek National
11 Monument.

12 (c) DONATIONS.—The Indian Creek Management
13 Council may accept, hold, administer, and use gifts, be-
14 quests, donations of funds or real property within the
15 boundaries of the Indian Creek National Monument, and
16 devices (including labor and services) to further the pur-
17 poses of the Indian Creek National Monument and to ad-
18 minister the Monument. Donations accepted under this
19 subsection shall be considered as a gift or bequest to or
20 for the use of the United States.

21 **SEC. 204. GENERAL PROVISIONS.**

22 (a) WITHDRAWALS.—Subject to valid existing rights,
23 all Federal land and interests in land within the Indian
24 Creek National Monument that is acquired by the United

1 States within the Indian Creek National Monument after
2 the date of the enactment of this Act, is withdrawn from—

3 (1) all forms of entry, appropriation or disposal
4 under the public land laws;

5 (2) location, entry, and patent under the mining
6 laws; and

7 (3) operation of the mineral leasing, mineral
8 materials, and geothermal leasing laws.

9 (b) LAND ACQUISITION.—

10 (1) IN GENERAL.—The Secretary of the Inte-
11 rior or the Secretary of Agriculture, as appropriate,
12 may acquire lands or interest in lands within the ex-
13 terior boundaries of the Indian Creek National
14 Monument by donation, purchase with donated or
15 appropriated funds, exchange, or transfer from a
16 Federal agency only with the concurrence of the In-
17 dian Creek Management Council.

18 (2) NO EMINENT DOMAIN OR CONDEMNATION.—The Secretary of the Interior and the Sec-
19 retary of Agriculture may not use eminent domain
20 or condemnation to acquire land or interest in land
21 within the exterior boundary of the Indian Creek
22 National Monument.

24 (3) INCORPORATION IN NATIONAL MONU-
25 MENT.—Any land or interest in land located inside

1 the exterior boundary of the Indian Creek National
2 Monument that is acquired by the United States
3 after the date of the enactment of this Act shall be
4 added to and administered as part of the Indian
5 Creek National Monument.

6 (c) EXCLUSION OF NON-FEDERAL LAND.—The In-
7 dian Creek National Monument includes only Federal land
8 and interests in Federal land and does not include private
9 property or other non-Federal land and interests in land.
10 The management plan developed and implemented under
11 this title shall not apply to private property or non-Federal
12 land or interests in land.

13 (d) WATER RIGHTS.—Nothing in this title—

14 (1) affects the use or allocation, in existence on
15 the date of the enactment of this Act, of any water,
16 water right, or interest in water;

17 (2) affects any vested absolute or decreed condi-
18 tional water right in existence on the date of the en-
19 actment of this Act, including any water right held
20 by the United States;

21 (3) affects any claims or rights to water not yet
22 asserted or finally determined;

23 (4) affects any interstate water compact in ex-
24 istence on the date of the enactment of this Act;

1 (5) authorizes or imposes any new reserved
2 Federal water rights; or

3 (6) relinquishes or reduces any water rights re-
4 served or appropriated by the United States in the
5 State of Utah on or before the date of the enactment
6 of this Act.

7 (e) FISH AND WILDLIFE.—Nothing in this title af-
8 fects the jurisdiction of the State of Utah with respect
9 to the management of fish and wildlife in the State.

10 (f) EMERGENCY RESPONSE.—Nothing in this title al-
11 ters the authority or responsibility of any party with re-
12 spect to emergency response activities within the Indian
13 Creek National Monument, including wildfire response.

14 (g) OVERFLIGHTS.—Nothing in this title shall pre-
15 clude overflights of military aircraft, the designation of
16 special-use airspace, or the use or establishment of mili-
17 tary flight training routes over the Indian Creek National
18 Monument.

19 (h) TRIBAL RIGHTS.—Nothing in this title affects the
20 rights of any federally recognized Indian Tribe or any
21 treaty right.

22 **SEC. 205. INDIAN CREEK MANAGEMENT COUNCIL.**

23 (a) DUTIES.—The Indian Creek Management Coun-
24 cil shall—

1 (1) develop and implement the comprehensive
2 management plan required by section 203; and

3 (2) regularly and meaningfully engage with the
4 Bears Ears Commission regarding the management
5 of the Indian Creek National Monument.

6 (b) MEMBERSHIP.—The Indian Creek Management
7 Council shall be composed of the following members ap-
8 pointed not later than 180 days after the date of the en-
9 actment of this Act by the President:

10 (1) One individual from the Department of the
11 Interior or the Department of Agriculture.

12 (2) Four individuals, in consultation with the
13 Congressional delegation from the State of Utah,
14 who shall represent the following:

15 (A) Two who are members of the San
16 Juan County, Utah, Board of Commissioners.

17 (B) One who is a representative of the ex-
18 ecutive branch of the State of Utah with rel-
19 evant expertise in the purposes of the Indian
20 Creek National Monument.

21 (C) One who is a member of a federally
22 recognized Indian Tribe in the State of Utah.

23 (c) QUALIFICATIONS.—Of the representatives ap-
24 pointed by the President under subsection (b)(2)—

1 (1) none shall be employees of the Federal Gov-
2 ernment;

3 (2) all shall be residents of the State of Utah.

4 (d) TERMS.—The President shall appoint the mem-
5 bers of the Indian Creek Management Council under sub-
6 section (b)(2) for a term of five years, except that the
7 President shall designate staggered terms for the members
8 initially appointed to the Indian Creek Management Coun-
9 cil. The President may not reappoint a member to more
10 than three consecutive terms.

11 (e) VACANCIES.—The President shall fill Presi-
12 dentially appointed vacancies on the Indian Creek Man-
13 agement Council as soon as practicable after the vacancy
14 has occurred.

15 (f) COMPENSATION.—Non-Federal members of the
16 Indian Creek Management Council shall serve without
17 pay, except for reasonable travel expenses, including per
18 diem in lieu of subsistence, at the rate authorized for em-
19 ployees of agencies under subchapter I of chapter 57 of
20 title 5, United States Code, while away from their homes
21 or regular places of business in the performance of duties
22 for the Council.

23 (g) CHAIR.—The members of the Indian Creek Man-
24 agement Council shall select the chair of the Indian Creek
25 Management Council from one of the Presidentially ap-

1 pointed representatives under subsection (b)(2) for a term
2 beginning on the date of selection, and ending in five years
3 or until the member's term of office expires, whichever oc-
4 curs first.

5 (h) ANNUAL INDIAN CREEK MANAGEMENT COUNCIL
6 REPORT.—

7 (1) PUBLIC REPORT PUBLICATION.—Not later
8 than September 30 of each year, the Indian Creek
9 Management Council shall post a public report on
10 the Forest Service, Bureau of Land Management,
11 and any Indian Creek National Monument-affiliated
12 websites maintained by the Indian Creek Manage-
13 ment Council. If the Indian Creek Management
14 Council cannot meet the September 30 deadline in
15 any year, on September 30 the Chair of the Indian
16 Creek Management Council shall publicly post on
17 the websites the reasons for such delay and the date
18 on which the submission of the report is anticipated.

19 (2) CONTENTS.—The report required by para-
20 graph (1) shall include—

21 (A) a description of the actions of the In-
22 dian Creek Management Council to develop or
23 implement the management plan for the Indian
24 Creek National Monument;

1 (B) the recommendations made by the
2 State, local entities, the Bears Ears Commis-
3 sion, the Indian Creek Archaeological Resources
4 Protection Unit, affected Indian Tribes, and the
5 public to the Indian Creek Management Council
6 during the preceding year and actions taken by
7 the Indian Creek Management Council as a re-
8 sult of the recommendations; and

9 (C) an accounting of the expenses of the
10 Indian Creek Management Council.

11 (i) STAFF ASSISTANCE.—The Indian Creek Manage-
12 ment Council may request administrative staff assistance
13 from Federal employees under the jurisdiction of the Sec-
14 retary of the Interior or the Secretary of Agriculture.

15 (j) MEETINGS.—

16 (1) FREQUENCY.—The Indian Creek Manage-
17 ment Council shall meet at the call of the Chair or
18 a majority of the members. Meetings shall be held
19 no less than once each calendar year. A majority
20 must be present to constitute a quorum to con-
21 ducting an official meeting of the Indian Creek Man-
22 agement Council.

23 (2) ANNOUNCEMENT; OPEN MEETINGS.—All
24 meetings of the Indian Creek Management Council
25 shall be announced not less than one week in ad-

1 vance in publications of general circulation and shall
2 be open to the public.

3 **SEC. 206. BEARS EARS COMMISSION.**

4 In addition to its duties under title I, the Bears Ears
5 Commission established under section 106 shall advise the
6 Indian Creek Management Council as provided in this
7 title.

8 **SEC. 207. ARCHAEOLOGICAL RESOURCES PROTECTION.**

9 (a) INDIAN CREEK ARCHAEOLOGICAL RESOURCES
10 PROTECTION UNIT.—

11 (1) ESTABLISHMENT.—The Indian Creek Man-
12 agement Council shall establish and maintain a In-
13 dian Creek Archaeological Resources Protection Unit
14 (which may be the same Unit as authorized under
15 section 107) to provide technical and other specific
16 assistance to help protect, conserve, and enhance the
17 unique and nationally important historic, sacred,
18 cultural, scientific, scenic, archaeological, natural,
19 and educational resources in the Indian Creek Na-
20 tional Monument.

21 (2) MEMBERSHIP.—Not later than 210 days
22 after the date of the enactment of this Act, the In-
23 dian Creek Management Council shall appoint 9 in-
24 dividuals to the Indian Creek Archaeological Re-
25 sources Protection Unit as follows:

1 (A) Five individuals with expertise in pre-
2 serving Tribal relics, artifacts, or other sacred
3 Tribal sites and objects.

4 (B) One individual with expertise in the
5 preservation of archaeological resources in fed-
6 erally protected areas.

7 (C) One individual with expertise in pro-
8 tecting scenic and natural resources.

9 (D) One individual representing a scientific
10 or educational institution in the State of Utah.

11 (E) One individual with historic preserva-
12 tion expertise in the State of Utah.

13 (3) DUTIES.—The Indian Creek Archaeological
14 Resources Protection Unit shall—

15 (A) advise the Indian Creek Management
16 Council on ways to protect, conserve, and en-
17 hance the unique and nationally important rec-
18 reational, historic, sacred, cultural, scientific,
19 scenic, archaeological, natural, and educational
20 resources in the Indian Creek National Monu-
21 ment;

22 (B) recommend educational materials and
23 signage informing visitors of the unique and na-
24 tionally important recreational, historic, sacred,
25 cultural, scientific, scenic, archaeological, nat-

1 ural, and educational resources in the Indian
2 Creek National Monument;

3 (C) recommend educational materials or
4 signage to prevent the destruction, degradation,
5 vandalism, or looting of sites within the Indian
6 Creek National Monument; and

7 (D) not later than 60 days after its estab-
8 lishment under paragraph (2), submit to the In-
9 dian Creek Management Council information
10 regarding—

11 (i) sites located within the Indian
12 Creek National Monument at high risk of
13 destruction, degradation, vandalism, or
14 looting;

15 (ii) specific actions to eliminate, pre-
16 vent, or minimize destruction, degradation,
17 vandalism, and looting within Indian Creek
18 National Monument; and

19 (iii) suggestions for additional admin-
20 istrative or other actions to help eliminate,
21 prevent, or minimize destruction, degrada-
22 tion, vandalism, or looting within Indian
23 Creek National Monument.

24 (4) TERMS.—

1 (A) IN GENERAL.—Members of the Indian
2 Creek Archaeological Resources Protection Unit
3 shall serve a term of 5 years beginning on the
4 date of appointment, except that the Indian
5 Creek Management Council shall designate
6 staggered terms for the members initially ap-
7 pointed to Indian Creek Archaeological Re-
8 sources Protection Unit.

9 (B) VACANCIES.—The Indian Creek Man-
10 agement Council shall make appointments to fill
11 vacancies on the Indian Creek Archaeological
12 Resources Protection Unit as soon as prac-
13 ticable after the vacancy has occurred.

14 (C) COMPENSATION.—Members of the In-
15 dian Creek Archaeological Resources Protection
16 Unit shall serve without pay, except for reason-
17 able travel expenses, including per diem in lieu
18 of subsistence, at the rate authorized for em-
19 ployees of agencies under subchapter I of chap-
20 ter 57 of title 5, United States Code, while
21 away from their homes or regular places of
22 business in the performance of duties for the
23 Unit.

24 (D) STAFF ASSISTANCE.—The Indian
25 Creek Archaeological Resources Protection Unit

1 may request administrative staff assistance
2 from Federal employees under the jurisdiction
3 of the Secretary of the Interior or the Secretary
4 of Agriculture or State employees under the ju-
5 risdiction of the State of Utah.

6 (E) MEETINGS.—The Indian Creek Ar-
7 chaeological Resources Protection Unit shall
8 meet at the call of the Indian Creek Manage-
9 ment Council or a majority of its members.
10 Meetings shall be held not less than once per
11 calendar year. A majority must be present to
12 constitute a quorum for the purpose of con-
13 ducting an official meeting of the Indian Creek
14 Archaeological Resources Protection Unit.

15 **SEC. 208. ENHANCED RESOURCE PROTECTION CAPABILI-**
16 **TIES IN THE INDIAN CREEK NATIONAL MONU-**
17 **MENT.**

18 (a) ENHANCED ENFORCEMENT CAPABILITY.—

19 (1) ENFORCEMENT.—The Secretary of the In-
20 terior and the Secretary of Agriculture shall assign
21 not less than 10 law enforcement personnel to pro-
22 tect the unique and nationally important rec-
23 reational, historic, sacred, cultural, scientific, scenic,
24 archaeological, natural, and educational resources of
25 Indian Creek National Monument and its sur-

1 rounding area, consistent with the management plan
2 developed under section 203(b).

3 (2) PLAN COMPLIANCE.—The Secretary of the
4 Interior and the Secretary of Agriculture shall each
5 ensure the law enforcement personnel perform the
6 duties under paragraph (1) consistent with the man-
7 agement plan developed under section 203(b).

8 (b) MEMORANDA OF UNDERSTANDING.—The Sec-
9 retary of the Interior and the Secretary of Agriculture
10 shall each enter into memoranda of understanding or co-
11 operative agreements with local or State law enforcement
12 entities to perform the duties described in subsection
13 (a)(1).

14 **SEC. 209. SCIENTIFIC RESEARCH TO FURTHER PURPOSE**
15 **OF INDIAN CREEK NATIONAL MONUMENT.**

16 The Secretary of the Interior and the Secretary of
17 Agriculture may enter into memoranda of understanding
18 or cooperative agreements with educational institutions or
19 other entities with expertise in archaeological, historical,
20 or natural science fields to conduct scientific research in
21 the Indian Creek National Monument to aid in the devel-
22 opment or implementation of the management plan re-
23 quired in section 203(b).

1 **SEC. 210. FEDERAL LAND MANAGER ADHERENCE.**

2 Federal land managers employed by the Bureau of
3 Land Management or the Forest Service and working in
4 the Indian Creek National Monument shall adhere to the
5 management plan created by the Indian Creek Manage-
6 ment Council under section 203(b).

7 **TITLE III—UTAH PUBLIC**
8 **SCHOOL TRUST LAND CER-**
9 **TAINTY**

10 **SEC. 301. DEFINITIONS.**

11 In this title:

12 (1) **FEDERAL LAND.**—The term “Federal land”
13 means the lands identified on the Map as “Federal
14 Land Proposed to Transfer to SITLA” administered
15 by the Bureau of Land Management.

16 (2) **MAP.**—The term “Map” means the map
17 prepared by the Bureau of Land Management enti-
18 tled “State and Federal Land Exchange Map” dated
19 _____.

20 (3) **NON-FEDERAL LAND.**—The term “non-Fed-
21 eral land” means the lands identified on the Map as
22 “State Trust Land Proposed for Transfer to United
23 States” in San Juan County, Utah, as generally de-
24 picted on the Map.

25 (4) **PERMITTED EXISTING USES.**—The term
26 “permitted existing uses” means any use authorized

1 under the applicable Bureau of Land Management
2 Resource Management Plan.

3 (5) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior.

5 (6) STATE.—The term “State” means the State
6 of Utah, acting as trustee under the Utah State
7 School and Institutional Trust Lands Management
8 Act (Utah Code Ann. 53C–1–101 et seq.) through
9 the Utah School and Institutional Trust Lands Ad-
10 ministration.

11 **SEC. 302. EXCHANGE OF LAND TO BENEFIT THE UTAH PUB-**
12 **LIC SCHOOL TRUST.**

13 (a) IN GENERAL.—If the State offers to convey to
14 the Secretary all right, title, and interest of the State in
15 and to all or part of the non-Federal land, the Secretary
16 shall—

17 (1) accept the offer; and

18 (2) on receipt of all right, title, and interest in
19 and to the non-Federal land, convey to the State (or
20 a designee) all right, title, and interest of the United
21 States in and to all or part of the Federal land on
22 an equal value basis.

23 (b) APPLICABLE LAW.—

24 (1) IN GENERAL.—The land exchange shall be
25 subject to section 206 of the Federal Land Policy

1 and Management Act of 1976 (43 U.S.C. 1716) and
2 other applicable law.

3 (2) LAND USE PLANNING.—The Secretary shall
4 not be required to undertake any additional land use
5 planning under section 202 of the Federal Land Pol-
6 icy and Management Act of 1976 (43 U.S.C. 1712)
7 before the conveyance of the Federal land under this
8 title.

9 (c) JOINT SELECTION REQUIRED.—The Secretary
10 and State shall jointly select which parcels of Federal land
11 to exchange under subsection (a).

12 (d) VALID EXISTING RIGHTS.—The exchange au-
13 thorized under subsection (a) shall be subject to valid ex-
14 isting rights and permitted existing uses.

15 (e) TITLE APPROVAL.—Title to the Federal land and
16 non-Federal land to be exchanged under this title shall
17 be in a format acceptable to the Secretary and the State.

18 (f) CONSULTATION WITH TRIBES.—The Secretary
19 shall consult with any federally recognized Indian Tribe
20 in the vicinity of the Federal land and the non-Federal
21 land to be exchanged under this title before the completion
22 of the land exchange.

23 (g) MAP AND LEGAL DESCRIPTIONS.—As soon as
24 practicable after the date of the enactment of this Act,
25 the Secretary shall finalize a map and legal descriptions

1 of all land to be conveyed under this Act. The Secretary
2 may correct any minor errors in the map or in the legal
3 descriptions. The map and legal descriptions shall be on
4 file and available for public inspection in appropriate field
5 offices of the Bureau of Land Management.

6 (h) COSTS OF CONVEYANCE.—Except as provided in
7 section 303(a)(5), as a condition of conveyance, any costs
8 related to the exchanges shall be allocated in accordance
9 with section 206(f)(2)(B) of the Federal Land Policy and
10 Management Act of 1976 (43 U.S.C. 1716(f)(2)(B)).

11 (i) ADMINISTRATION.—Subject to valid existing
12 rights and permitted existing uses, at the completion of
13 each exchange of Federal land and non-Federal land
14 under this title the non-Federal land shall be—

15 (1) added to the Shash Jáa National Monument
16 or the Indian Creek National Monument, as appro-
17 priate, if located within the exterior boundary of the
18 Shash Jáa National Monument or the Indian Creek
19 National Monument; and

20 (2) administered in accordance with—

21 (A) this Act;

22 (B) the Federal Land Policy and Manage-
23 ment Act of 1976 (43 U.S.C. 1701 et seq.); and

24 (C) other applicable laws and regulations.

1 (j) DEADLINE.—The land exchange under this title
2 shall be completed as expeditiously as possible.

3 **SEC. 303. EQUAL VALUE LAND EXCHANGES AND APPRAIS-**
4 **ALS.**

5 (a) APPRAISALS.—

6 (1) IN GENERAL.—The values of the lands to
7 be exchanged under this title shall be determined by
8 appraisals conducted by one or more independent
9 and qualified appraisers.

10 (2) STATE APPRAISER.—The Secretary and the
11 State may agree to use an independent and qualified
12 appraiser retained by the State, with the consent of
13 the Secretary.

14 (3) APPLICABLE LAW.—The appraisals shall be
15 conducted in accordance with nationally recognized
16 appraisal standards, including, as appropriate, the
17 Uniform Appraisal Standards for Federal Land Ac-
18 quisitions and the Uniform Standards of Profes-
19 sional Appraisal Practice.

20 (4) APPROVAL.—An appraisal conducted under
21 this title shall be submitted to the Secretary and the
22 State for approval.

23 (5) COST OF APPRAISAL.—The cost of an ap-
24 praisal conducted under this title shall be paid in
25 equal shares by the Secretary and the State. If the

1 State retains an appraiser under paragraph (2), the
2 Secretary shall reimburse the State 50 percent of
3 the costs incurred by the State.

4 (6) MINERALS.—

5 (A) MINERAL REPORTS.—The appraisals
6 required under paragraph (1) may take into ac-
7 count mineral and technical reports provided by
8 the Secretary and the State in the evaluation of
9 minerals in the Federal land and non-Federal
10 land.

11 (B) MINING CLAIMS.—Federal land that is
12 encumbered by a mining or millsite claim lo-
13 cated under sections 2318 through 2352 of the
14 Revised Statutes (commonly known as the “Min-
15 ing Law of 1872”; 30 U.S.C. 21 et seq.) shall
16 be appraised in accordance with standard ap-
17 praisal practices, including, as appropriate, the
18 Uniform Appraisal Standards for Federal Land
19 Acquisition.

20 (7) DURATION.—An appraisal conducted under
21 paragraph (1) shall remain valid for 3 years after
22 the date on which the appraisal is approved by the
23 Secretary and the State.

24 (b) EQUALIZATION.—

1 (1) SURPLUS OF FEDERAL LAND.—If the final
2 appraised value of the Federal land exceeds the final
3 appraised value of the non-Federal land to be ex-
4 changed under this title, the value of the Federal
5 land and non-Federal land shall be equalized—

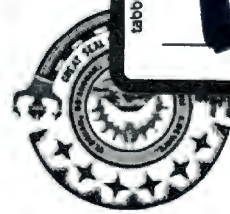
6 (A) by conveying additional non-Federal
7 land in the State to the Secretary, subject to
8 the approval of the Secretary; or

9 (B) by using a combination of the methods
10 described in paragraphs (2) and (3).

11 (2) SURPLUS OF NON-FEDERAL LAND.—If the
12 final appraised value of the non-Federal land ex-
13 ceeds the final appraised value of the Federal land
14 to be exchanged under this title, the value of the
15 Federal land and non-Federal land shall be equal-
16 ized by the State adjusting the acreage of the non-
17 Federal land to be conveyed

18 (3) AMOUNT OF PAYMENT.—Notwithstanding
19 section 206(b) of the Federal Land Policy and Man-
20 agement Act of 1976 (43 U.S.C. 1716(b)), the Sec-
21 retary may accept a payment under paragraph (1)
22 in excess of 25 percent of the value of the Federal
23 land conveyed.

○



Testimony of the Bears Ears Inter-Tribal Coalition

**Before the U.S. House of Representatives
Committee on Natural Resources
Subcommittee on Federal Lands**

**Legislative Hearing on
H.R. 4532, the Shash Jáa National Monument and Indian Creek National Monument Act**

January 9, 2018

Introduction

Chairman McClintock, Ranking Member Hanabusa and Members of the Subcommittee, thank you for the opportunity to testify on H.R. 4532, the Shash Jáa National Monument and Indian Creek National Monument Act. My name is Shaun Chapoose. I am an elected member of the Ute Indian Tribe's Business Committee. I also serve as a member of the Bears Ears Commission. Accompanying me today is Davis Filfred, Navajo Nation Delegate, who is also a member of the Bears Ears Commission.

The Bears Ears Commission was formed to assist the Federal government in managing the Bears Ears National Monument. The Commission's five members represent the five Tribes who sought the establishment of the Monument through the Bears Ears Inter-Tribal Coalition (Coalition). The Coalition includes: the Ute Indian Tribe, the Navajo Nation, the Ute Mountain Ute Tribe, the Pueblo of Zuni, and the Hopi Tribe. The Coalition represents a historic gathering of our people and our tribal nations in support of the significant and priceless resources making up the Bears Ears National Monument. I am honored to testify today on behalf of the five Tribes of the Bears Ears Inter-Tribal Coalition.

At the outset we ask that the Subcommittee recognize the number of Tribes that were cut out of this hearing. Each of the Tribes making up the Bears Ears Inter-Tribal Coalition is its own sovereign government. Each of us have our own unique and negotiated relationship with the United States. This relationship is highlighted in the United States Constitution and began long before Utah became a state.

Yet, at this hearing, our five Tribes are forced to share one seat, while every level of the State of Utah is represented, including: the state government, county government and a Utah stakeholder lobbying group. We ask that the Subcommittee recognize its government-to-government relationship with each of our Tribes and provide a full hearing of the impacts H.R. 4532 will have on our cultural, natural and sacred resources. Each of our Tribes have our own unique concerns and perspectives on H.R. 4532.

The Bears Ears Inter-Tribal Coalition adamantly opposes H.R. 4532 and its attempt to legislatively confirm President Trump's unlawful action revoking, replacing and dismantling the Bear Ears National Monument. Of course, we appreciate Congressman Curtis' recognition of the significance of the cultural, natural and sacred resources included within the Shash Jáa and Indian Creek areas in his bill, H.R. 4532. However, in this context, the bill pours salt on the wound caused by the President's unlawful action.

Instead of H.R. 4532, the Subcommittee should be holding a hearing on H.R. 4518, the Bears Ears National Monument Expansion Act. H.R. 4518 was introduced by Congressman Gallego on December 1, 2017 and referred to the Subcommittee on December 7, 2017. Despite being before the Subcommittee for a longer period of time than H.R. 4532, no hearing has been scheduled on H.R. 4518. In addition, H.R. 4518 has the broad support of 98 co-sponsors, while H.R. 4532 has only garnered the support of three co-sponsors. If the Subcommittee were following regular order, there appears to be no basis for holding a hearing on H.R. 4532 and not H.R. 4518. At a minimum, today's hearing should have provided equal time for consideration of both bills.

H.R. 4518 would address the President's unlawful action by expanding the Bear Ears National Monument to the 1.9 million acres originally proposed by the Coalition. The Coalition and Utah Diné Bikéyah, a local, nonprofit Utah Navajo organization, worked for almost a decade to conduct an extensive ethnographic study documenting a vast array of "historic landmarks, historic and prehistoric structures, and other objects of historic and scientific interest" that have special significance to our Tribal Nations and our ancestors. As required by the Antiquities Act, that study showed that 1.9 million acres was the "smallest area compatible with the proper care and management of the objects to be protected" and that protection was needed under the Antiquities Act. H.R. 4518, developed in consultation with tribal governments, would expand the size of the Monument to its originally proposed 1.9 million acres to ensure that all of its vital and sacred resources are protected in accordance with the law.

In contrast, H.R. 4532 was developed without any tribal consultation and includes a variety of serious problems that violate basic tenants of federal Indian law and the United States' treaty, trust and government-to-government relationship with Indian tribes. Problems include:

- creating a tribal management council that is not governed by tribes and is composed of many of the strongest opponents to the Bears Ears National Monument;
- imposing an inappropriate barrier between the Tribes and our Federal trustee by requiring the comments of the Bears Ears Commission to be filtered through management councils consisting of non-federal and non-tribal representatives;
- elevating the views of state and country governments above the Tribes, and ignoring and undermining the government-to-government relationship between tribes and the Federal government by treating tribes as mere interest groups;
- creating and imposing false divisions within our Tribes; and
- including land exchange provisions that could affect Indian reservation lands.

Under most circumstances we would be eager to work with Congressman Curtis and the Subcommittee to address and resolve these problems with H.R. 4532. However, we cannot work in support of a bill that would legislatively confirm the President's unlawful action dismantling a decade of collaborative work to establish the Bears Ears National Monument.

The Bears Ears National Monument

Establishment of the Bears Ears National Monument was a decade long collaborative effort to encompass and protect hundreds of thousands of cultural, historic, and spiritual sites and features. As noted above, the Coalition and Utah Diné Bikéyah worked for almost a decade to conduct an extensive ethnographic study documenting sites and objects across southeastern Utah. The 1.9 million acres originally proposed by the Coalition was reduced by about 30 percent by Presidential Proclamation No. 9558 to establish the 1.35 million acre Bears Ears National Monument.

In this reduced area, there are no unimportant areas. In fact, the Bears Ears National Monument is so rich, and the resources there are so densely situated, that one cannot go more than one-eighth of a mile without encountering the next site or "object." If you remove any part of the Monument from protection, it will necessarily damage cultural, spiritual, archaeological and paleontological sites of paramount significance.

In addition to vast "historic landmarks, historic and prehistoric structures, and other objects of historic and scientific interest" contained within the Monument, Bears Ears is a homeland to us. It always has been and remains so. We continue to use Bears Ears to: collect plants, minerals, objects and water for religious and cultural ceremonies and medicinal purposes; hunt, fish and gather; provide offerings at archaeological sites; and conduct ceremonies on the land. In fact, Bears Ears is so culturally and spiritually significant that some ceremonial use items can only be harvested within Bears Ears. Moreover, some members of the Coalition's Tribes continue to hold grazing permits and allotments in the area.

Our cultures are everywhere within Bears Ears. The canyons and forests hold many of our stories. Family gatherings, dances, and ceremonies are held at special places within Bears Ears. Our tribal members go to Bears Ears to gather roots, berries, piñon nuts, weaving materials, and medicines. We go for healing. Stone cliff-dwellings, rock art and trails, testaments to the Old People, have survived thousands of years of wear and weather. Our ancestors are buried there, and we can hear their songs and prayers on every mesa and in each canyon.

The Bears Ears National Monument enjoys overwhelming popularity nationally, extensive and passionate support in the State of Utah, and support from locals who view the Monument as an economic development opportunity. Businesses based on tourism, recreation and respect for the Monument's cultural resources provide long-term sustainable jobs and local economic resources. This is in contrast to uranium and fossil-fuel mining on federal lands that provide temporary, dangerous jobs that fund far off corporations, often destabilize local economies, and leave behind pollution and a scarred landscape.

The President's attempt to eliminate or reduce the boundaries of the Bears Ears National Monument is wrong on every count. Such action is illegal, beyond the reach of presidential authority, and should not be confirmed by H.R. 4532. Despite provisions of H.R. 4532 purporting to withdraw portions of the Monument's lands from entry for mining purposes, the Monument would still be subject to and affected by existing claims and leases, potential expanded mining, and mining related activities. In addition, grazing interests would be given priority and damaging motorized vehicle use would be permitted. Finally, ghastly looting and grave robbing continues to this day throughout Bears Ears and would not be deterred by H.R. 4532.

Preventing and addressing these impacts were the primary reason that the Tribes sought monument status for this area. While we recognize there are appropriate places for resource development, including energy development, this is not one of those areas. This is an area that must be preserved and protected for its cultural, archeological, paleontological and sacred. Without appropriate protection, American citizens and the world would lose the opportunity to enjoy one of the most remote and wondrous landscapes found anywhere. We would also lose the opportunity to highlight, foster and share our traditional knowledge that is tied to Bears Ears.

The President's Unlawful Action and H.R. 4532

Despite its provisions purporting to protect important cultural, natural and sacred resources, H.R. 4532 can only be understood in the context of the President's unlawful action revoking, replacing and dismantling the Bear Ears National Monument. On December 4, 2017, the President issued Presidential Proclamation No. 9681 purporting to "modify" the Bears Ears National Monument and designating two different, smaller and isolated units called the Shash Jaa and Indian Creek units. This drastic change actually revokes and dismantles the Monument and replaces it with two new monuments. These two different monuments consist of 201,397 acres, an 85 percent reduction in land when compared to the original Monument, and leave hundreds of thousands of priceless and significant cultural, natural and sacred objects unprotected.

President Trump's unprecedented proclamation revoking Bears Ears and replacing it with two new monuments violates the Antiquities Act and exceeds the power delegated to the President by Congress. The Antiquities Act authorizes Presidents to designate federal public lands, such as Bears Ears, as national monuments to safeguard and preserve landmarks, structures, and objects of historic or scientific importance. The Antiquities Act does not authorize a President to rescind or modify national monuments created by their predecessors, and certainly does not authorize them to revoke and replace existing monuments with smaller ones as has been attempted here. H.R. 4532 would legislatively confirm this unlawful action.

H.R. 4532 would leave hundreds of thousands of priceless and significant cultural, natural and sacred objects unprotected. There are too many objects, sites and resources left unprotected to list them all here. Not to mention the cultural practices and traditional tribal intellectual knowledge that would be lost or diminished. A few examples of objects and sites that would be unprotected are included in Exhibits 1, 2 and 3 attached to our testimony.

Exhibit 1 shows an example of a dwelling and related rock art that H.R. 4532 would leave unprotected. It shows the handprints and dwellings of our ancestors whose burial sites and funerary objects have been looted. Bears Ears includes a variety of dwellings and granaries showing different construction methods and eras of building. The area is unusual in that it shows contact between Mesa Verde and Chacoan Ancestral Puebloans, including differences in construction of religious structures. These “objects of historic and scientific interest” should be protected as a part of the Bears Ears National Monument under the Antiquities Act.

Exhibit 2 shows rock art representing a cradleboard of Ute origin that H.R. 4532 would leave unprotected. The artwork is unusual and rare. It is located on a horizontal surface. Again, this is an “object of historic and scientific interest” that should be protected as a part of the Bears Ears National Monument under the Antiquities Act.

Finally, Exhibit 3 shows Basketmaker or Ancestral Puebloan pictographs painted on a rock surface that would be left unprotected by H.R. 4532. Bears Ears includes a wide variety of rock art of different styles and from different time periods. Again, these are “objects of historic and scientific interest” that should be protected as a part of the Bears Ears National Monument under the Antiquities Act.

These are just a few of the “objects of historic and scientific interest” that should still be protected under the Antiquities Act and any legislation covering these resources. There is absolutely no rational basis to exclude these sites and objects while including the sites and objects that are within the Shash Jáa and Indian Creek areas designated by President Trump and H.R. 4532.

Claims that these objects and sites can be protected under other applicable laws like the National Historic Preservation Act or the Archeological Resources Protection Act of 1979 are a red herring. If these laws provided adequate protections, there would be no need for the protections included in President Trump’s Proclamation No. 9681 or H.R. 4532. Instead, these claims merely expose political decision-making behind Proclamation No. 9681 and H.R. 4532. Unfortunately, it is clear that Proclamation No. 9681 and H.R. 4532 were not based on scientific and ethnographic assessments of the resources that would be impacted.

Specific Problems with H.R. 4532

Most important, H.R. 4532 was not developed in consultation with the Indian tribes who hold these lands sacred and would be most impacted. Misleading statements by some in Congress and the Administration require us to emphasize that discussions with individual tribal members are not government-to-government consultation. Let us be clear, none of the elected tribal leaders making up the Bears Ears Inter-Tribal Coalition was contacted to advise, consult or assist in the development of H.R. 4532. In fact, not a single federally recognized tribal government was consulted on the proposals in H.R. 4532. Specific problems with the bill demonstrate this lack of consultation.

Time after time, H.R. 4532 undermines and violates the United States’ treaty, trust and government-to-government relationship with our Tribes. For example, we were shocked by the

name of Shash Jáa Tribal Management Council. Nothing about this Council reflects true tribal management. First, the Council consists of three representatives who are not required to have any ties whatsoever to tribal governments. Second, the tribal members on the Council are not required to be duly elected or appointed representatives of tribal governments, which means they will not be authorized tribal government representatives. Further to that point, the President will appoint all of the members of the Council as opposed to tribal governments. Third, the tribal members must all be from only two of the five tribes with an interest in Bears Ears whereas the five Coalition Tribes have already acknowledged our shared and local interest in Bears Ears. Fourth, the Council is required to consult with state and local governments, and the public, but are not required to consult with the tribes who hold these lands sacred.

Finally, the most shameful aspect of the bill, is that it improperly predetermines the tribal representatives who would serve on the Council. It is not up to the United States or Congress to select who will represent our tribes. This is an inappropriate return to the failed policies of the 1800's when the United States would divide tribes and pursue its own objectives by designating for itself which tribal representatives the United States would negotiate. It is up to sovereign tribal governments, not the United States, to select our own representatives.

These factors are even worse for the Indian Creek Management Council where a single tribal representative serves with four representatives from federal, state and county governments. Again, the tribal representative would be appointed by the President and not the tribe, and would have to consider and incorporate the comments of state and local governments and the public as opposed to the tribal governments most affected. For both the Shash Jáa and Indian Creek areas, the Bears Ears Commission, including the five Tribes is reduced to an advisory group.

These provisions attempt to treat Indian tribes as merely public stakeholders and not as governments, and most certainly not as governments with a direct sovereign-to-sovereign relationship with the federal government. This violates fundamental principles of federal Indian law. The United States has a treaty, trust and government-to-government relationship with Indian tribes. As specified in the United States Constitution, this relationship is exclusive and does not include state governments. H.R. 4532 must be revised to reflect these important principles of federal law.

Title III of H.R. 4532 also needs revision. Title III allows the State of Utah to exchange its school trust lands located inside the Shash Jáa and Indian Creek areas for other lands within the state to provide for resource development in support of public schools. However, this provision must be revised to exclude lands within Indian reservations to prevent impacts to on-reservation Indian resources.

Our cultural, natural and sacred resources within our Indian reservations are just as important as the resources within the Bears Ears National Monument. Our reservation lands were reserved in treaties and other agreements to provide a homeland for our tribes. In another return to the failed policies of the 1800's, Title III of H.R. 4532 would allow another Indian land grab where federal lands lie within our reservations. The United States and Congress rejected these policies long ago in favor of protecting and restoring Indian reservation lands. H.R. 4532 and this extreme proposal should be soundly rejected.

Conclusion

The Bears Ears Inter-Tribal Coalition adamantly opposes H.R. 4532 which would legislatively confirm the President's unlawful action in violation of the Antiquities Act. H.R. 4532 would dramatically affect some of our most important cultural, natural and sacred resources. We ask that the Subcommittee provide a full hearing of H.R. 4532 and hear from each of the five Tribes who make up the Bears Ears Inter-Tribal Coalition. We also ask that the Subcommittee hold a hearing on H.R. 4518 which has broad support and would resolve many of the problems raised today.

Thank you for your consideration of our testimony.

Exhibit 1

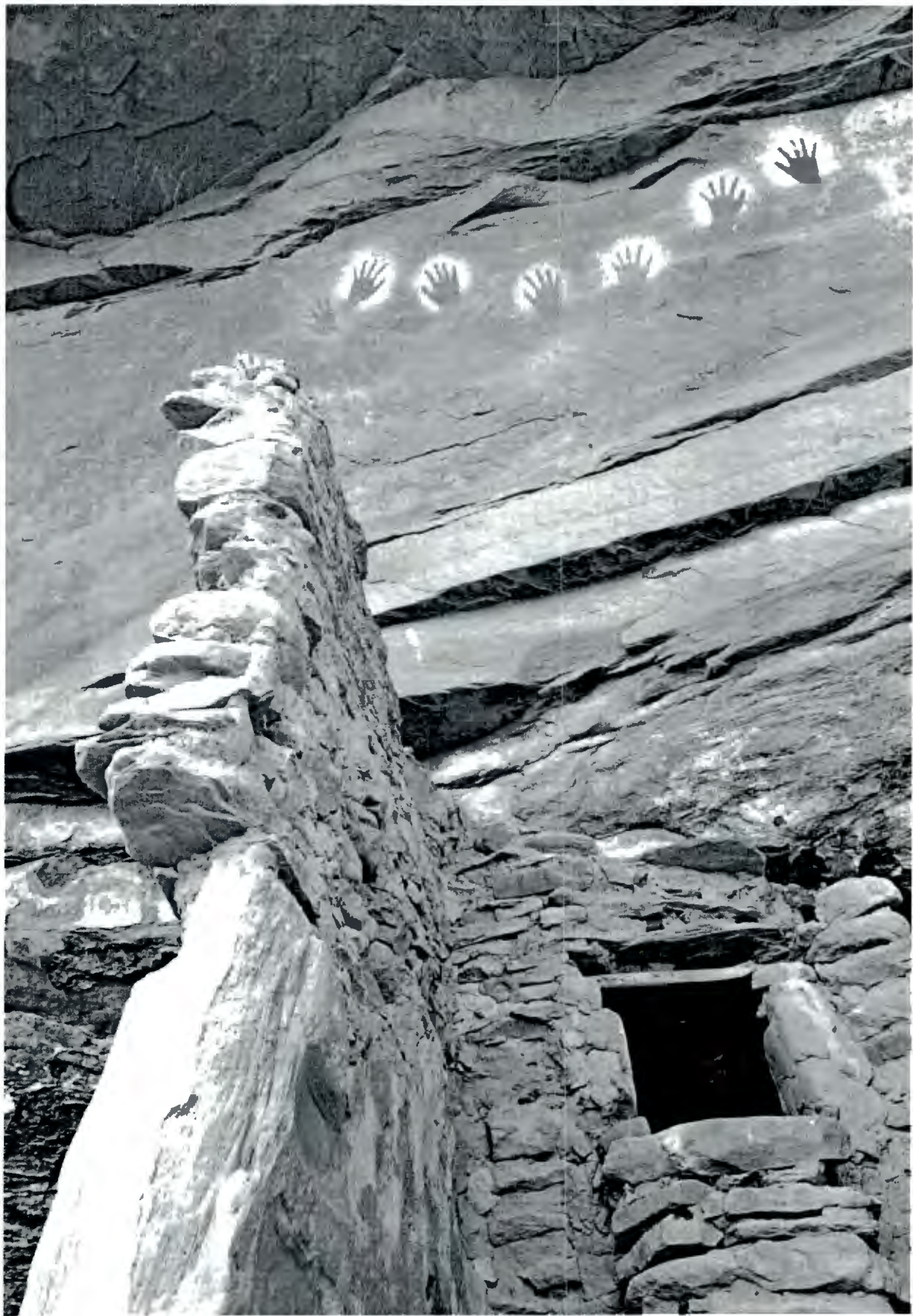
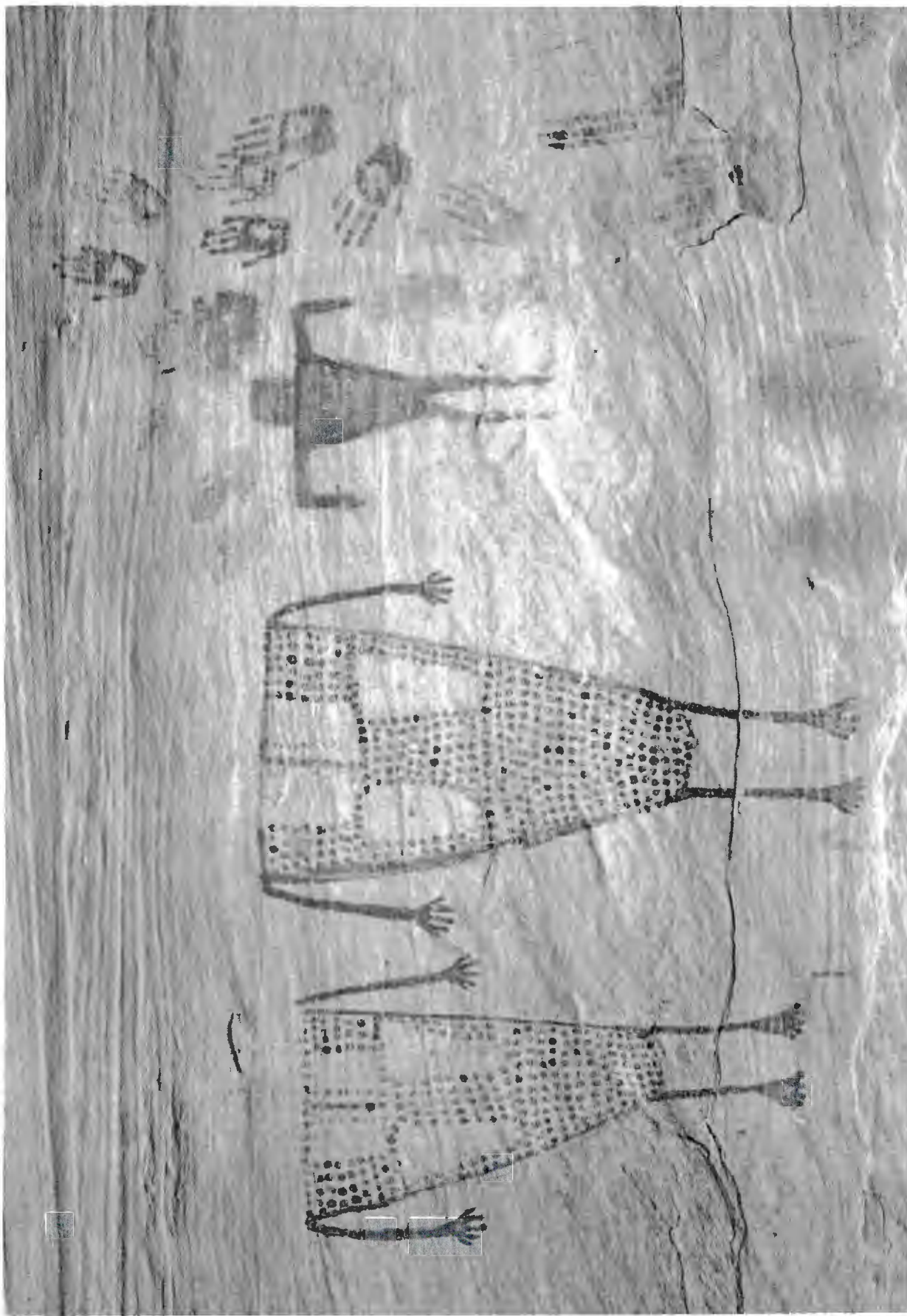


Exhibit 2



Exhibit 3



NAVAJO NATION

RCS# 744

Naa'bik'iyati Committee

1/17/2018
03:46:20 PM

Amd# to Amd#

Legislation No. 0015-18

PASSED

MOT Pete

Opposing H.R. 4532 Titled

SEC Perry

"Shash Jaa" National Monument
& Indian Creek Nat. Monument

Yea : 12

Nay : 0

Excused : 1

Not Voting : 11

Yea : 12

Bennett

Damon

Perry

Smith

Brown

Daniels

Pete

Tso

Crotty

Filfred

Slim

Tsosie

Nay : 0

Excused : 1

Chee

Not Voting : 11

Bates

Begay, S

Jack

Witherspoon

Begay, K

BeGaye, N

F'helps

Yazzie

Begay, NM

Hale

Shepherd