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THE CONVERSATION

Academic rigor, journalistic flair



The Trump administration will review the status of The Bears Ears National Monument in Utah, one of the country's most significant cultural sites. Bureau of Land Management, CC BY

Trump's plan to dismantle national monuments comes with steep cultural and ecological costs

May 3, 2017 10:05am EDT

In the few days since President Trump issued his Executive Order on National Monuments, many legal scholars have questioned the legality of his actions under the Antiquities Act. Indeed, if the president attempts to revoke or downsize a monument designation, such actions would be on shaky, if any, legal ground.

Authors



But beyond President Trump's dubious reading of the Antiquities Act, his threats also implicate a suite of other cultural and ecological laws implemented within our national monuments.

By opening a Department of Interior review of all large-scale monuments designated since 1996, Trump places at risk two decades' worth of financial and human investment in areas such as endangered species protection, ecosystem health, recognition of tribal interests and historical protection.

Why size matters

Trump's order suggests that larger-scale monuments such as Bears Ears National Monument in Utah, or the Missouri River Breaks National Monument in Montana, run afoul of the Antiquities Act because of their size. Nothing is farther from the truth. The act gives presidents discretion to protect landmarks and "objects of historic or scientific interest" located within federal lands. Designations are not limited to a particular acreage, but rather to "the smallest area compatible with proper care and management of the objects to be protected."

Thus, the size and geographic range of the protected resources dictate the scale of the designation. We would not be properly managing the Grand Canyon by preserving a foot-wide cross-section of its topography in a museum.

The U.S. Supreme Court upheld the validity of larger-scale monuments when it affirmed President Teddy Roosevelt's 1908 designation of the Grand Canyon as "the greatest eroded canyon in the United States" in *Cameron v. U.S.* in 1920. Cameron, an Arizona prospector-politician, had filed thousands of baseless mining claims within the canyon and on its rim, including the scenic Bright Angel Trail, where he erected a gate and exacted an entrance fee. He challenged Roosevelt's sweeping designation and lost, spectacularly, because the Grand Canyon's grandeur was precisely what made it worthy of protection.

By downsizing or dismantling a monument, Trump would be intentionally unprotecting the larger-

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scale resources our nation has been managing as national treasures. The loss in value would be considerable, and compounded doubly by the lost cultural and ecological progress we have made under related laws.

Cultural costs of downsizing

The Antiquities Act has long been used to protect important archaeological resources. Some of the earliest designations, like El Morro and Chaco Canyon in New Mexico, protected prehistoric rock art and ruins as part of the nation's scientific record. This protection has been particularly critical in the Southwest, where looting and pot hunting remain a significant threat. Similar interests drove the creation of several monuments subject to Trump's order, including Grand Staircase-Escalante National Monument, Canyon of the Ancients National Monument and Bears Ears National Monument. Thus, any changes to those monuments mean less protection for – and less opportunity to learn from – these archaeological wonders.

But we have learned that our past and our natural world are not merely matters for scientific inquiry to be explained by professors through lectures and field studies. Instead, scientists, archaeologists and federal land managers recognize the need to understand and foster continuing cultural connection between indigenous people and the areas where they and their ancestors have lived, worshipped, hunted and gathered since time immemorial. Many of these places are on federal lands.

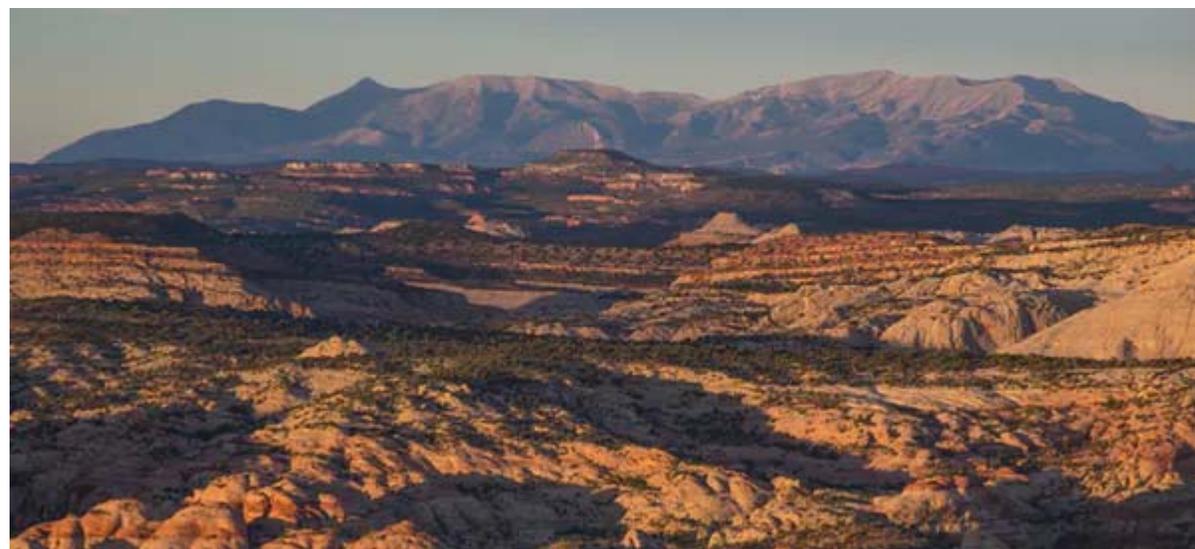
While other recent designations recognized the present-day use of monument areas by tribes and their members, Bears Ears National Monument was the first to specifically protect both historic and prehistoric cultural resources and the ongoing cultural value of the area to present-day tribes. Unlike prior monuments, Bears Ears came at the initiative of tribal people, led by a unique inter-tribal coalition that brought together many area residents and garnered support from over 30 tribes nationwide. This coalition also sought collaborative tribal-federal management as a way to meaningfully invigorate cultural protection. As a result, President Obama also established the Bears Ears Commission, an advisory group of elected tribal members with whom federal managers must meaningfully engage in managing the monument.

This national investment in cultural collaboration brings great value – a value utterly ignored by Trump’s order. In fact, under that order, Bears Ears faces an expedited (45-day) review because, as Secretary Ryan Zinke noted in a recent press conference, it is “the most current one.” Though the order includes opportunity for tribal input, the Bears Ears inter-tribal coalition has yet to hear from Secretary Zinke, notwithstanding numerous requests to meet.

Ecological costs of downsizing

Because they preclude development, national monuments are also critically important for ecological protection. In fact, they often serve the objectives of other federal requirements, such as the Endangered Species Act.

For example, Devils Hole National Monument provides the only known habitat for the endangered Devils Hole Pupfish (*Cyprinodon diabolis*). This has meant that groundwater exploitation from nearby development is restricted to protect Pupfish habitat. Similarly, the Grand Staircase-Escalante National Monument is home to an array of imperiled wildlife, including the endangered desert tortoise and the endangered California condor, along with many other native species like desert bighorn sheep and peregrine falcons.





The Grand Staircase-Escalante National Monument is among the national monuments vital to enforcing the Endangered Species Act. Bureau of Land Management

Within the protective reach of a national monument, we are also likely to find important stretches of land officially designated by federal agencies as protected land, such as scenic wilderness, wilderness study areas, the Bureau of Land Management's areas of critical environmental concern (ACEC) or the Forest Service's research natural areas (RNAs). Each monument's care is thus interwoven with the management of these other ecologically designated areas, something plainly apparent to the communities and agency officials long working with these lands.

Zinke's backyard

These costs may hit close to home for Zinke since the Missouri River Breaks National Monument, located in his home state of Montana, is on the chopping block. President Clinton designated this 375,000-acre monument in 2001 to protect its biological, geological and historical wealth from the pressures of grazing and oil and gas extraction. Clinton noted that "[t]he area has remained largely unchanged in the nearly 200 years since Meriwether Lewis and William Clark traveled through it on their epic journey."



The monument contains a National Wild and Scenic River corridor and segments of the Lewis and Clark and Nez Perce National Historic Trails, as well as the Cow Creek Island ACEC. It is the "fertile crescent" for hundreds of iconic game species and provides essential winter range for sage grouse (carefully managed to avoid listing under the ESA) and

Interior Secretary Ryan Zinke will need to assess the cultural and ecological value of a national monument in his home state of Montana. CC BY-SA

spawning habitat for the endangered pallid sturgeon. Archaeological and historical sites also abound, including teepee rings, historic trails and lookout sites of Meriwether Lewis.

The size of the Missouri River Breaks monument is thus scaled to protect an area in which lie valuable objects and geographic features, and a historic – even monumental – journey took place. And every investment we make in the monument yields a twofold return as it supports our nation’s cultural and ecological obligations under related federal laws.

At the end of the day, while Trump’s order trumpets the possibility that monument downsizing will usher in economic growth, it makes no mention of the extraordinary economic, scientific and cultural investments we have made in those monuments over the years. Unless these losses are considered in the calculus, our nation has not truly engaged in a meaningful assessment of the costs of second-guessing our past presidents.

- Ecology
- National parks
- Indigenous land rights
- Endangered Species Act
- National monuments
- US land policy
- Trump administration
- Antiquities Act
- Federal land
- Trump executive order