

Update on Bears Ears National Monument Hearing

On Tuesday, January 9, 2018, the House Natural Resources Subcommittee on Federal Lands held a legislative hearing on H.R. 4532, the “Shash Jáa National Monument and Indian Creek National Monument Act.” The Republican bill would implement President Trump’s December 4, 2017, proclamation reducing Bears Ears National Monument from 1.35 million acres to 201,876 acres and dividing the land into two separate National Monuments: Shash Jáa (“Bears Ears” in Navajo) at 129,980 acres and Indian Creek at 71,896 acres. Below provides an overview of the bill, as well as the main issues raised during today’s hearing.

Overview of H.R. 4532

H.R. 4532 would terminate President Obama’s Presidential Proclamation of the Bears Ears National Monument, while precluding any mining or oil and gas activities within the original monument boundaries. The bill would not affect existing tribal rights or water rights in the area. Archaeological Resources Protection Units would be created to preserve the monuments’ resources and at least 10 federal law enforcement officials would be required at each site. The bill would also authority Utah to exchange state land within the monuments’ boundaries for lands elsewhere of equal value.

H.R. 4532 would establish the Shash Jáa Tribal Management Council to manage the monument in consultation with the Bears Ears Commission and appropriate state, local, and tribal entities. The Council would be comprised of seven members: one representative from Interior or USDA, three Navajo Nation members, one White Mesa Ute member, and two members of the San Juan County Board of Commissioners. These positions would be appointed in consultation with the Utah Congressional delegation, subject to Presidential approval. All members must be residents of Utah, aside from the Interior or USDA representative. Thus, the Council would only represent local interests and leave other tribal nations with only a limited voice in the land management process through an undefined consultation requirement. A similar council would be established at Indian Creek.

H.R. 4532 was introduced in the House on December 4, 2017, and there is no companion bill in the Senate. A copy of the bill is attached for your review. A video recording of the hearing is also available at <https://naturalresources.house.gov/calendar/eventsingle.aspx?EventID=403678>.

Hearing and Witness Testimony

The witness panel was comprised of four individuals: (1) Shaun Chapoose, Chairman of the Ute Tribal Business Committee and a member of the Bears Ears Coalition; (2) Gary Herbert, Utah State Governor; (3) Matthew Anderson, Director of the Sutherland Coalition for Self-Government in the West (a conservative public policy think tank in Utah); and (4) Suzette Morris, Vice President of the Stewards of

San Juan County and member of the Ute Mountain Ute Tribe (but not serving as a representative of the Tribe for the purposes of the hearing).

Mr. Chapoose expressed firm opposition to the bill, repeatedly emphasizing that tribal nations – such as the Pueblos, Ute, Hopi, Navajo Nation – have deep ancestral ties to the land that cannot and should not be treated as any less of a vital interest than those of tribal communities in the immediate vicinity of Bears Ears and Grand Staircase-Escalante. Members of the Subcommittee, however, did not seem to [respond to](#) the historical and spiritual significance of the lands to [Tribal Nations](#) outside of Utah, and instead focused almost exclusively on the interests of the local community. Mr. Chapoose also underscored the importance of honoring the government-to-government relationship that exists between each tribal nation and the Federal Government. He pointed to the fact that he was the only elected tribal official on the panel, while every level of Utah’s state government was represented, as evidence that tribal interests were not being appropriately considered under the bill. Mr. Chapoose expressed his belief that this bill will only further divide tribes and perpetuate tensions into the future.

The remaining witnesses expressed strong support for H.R. 4532 and the reduction of Bears Ears National Monument to 15% of its current size. Ms. Morris stated that the bill “will finally empower the voices who have been silenced in this debate, and those are the voices of the local tribes who actually live in San Juan County.” Governor Herbert agreed, stating that the legislative process needs to account for the interests of local communities that were overlooked during the initial Bears Ears proclamation. He also stated that Congress should reform the Antiquities Act to prevent its further abuse by both parties going forward. Mr. Anderson voiced support for the land exchange provision, which he believes will be critical to increasing the state’s taxable land base for public education.

The Republican Congressmen in attendance expressed uniform support for the bill. Full Committee Chairman Rob Bishop lead the charge, critiquing President Obama’s proclamation and requesting a follow-up hearing to discuss what he perceived as false claims being made by proponents of Bears Ears, especially about the lack of consultation and levels of protection accorded to the land.

Only two Democratic Congressmen attended the hearing: Ranking Member Raul Grijalva [D-CA] and Congressman Alan Lowenthal [D-CA]. Both used their time to emphasize the bill’s potential to undermine tribal sovereignty. They also drew attention to the corporate interests that provide the majority of funding for the groups opposing Bears Ears and Grand Staircase-Escalante, particularly the “dark ATM” of the Koch Brothers.

Next Steps

The Subcommittee intends to hold another legislative hearing on H.R. 4532 in the near future. We will continue to monitor the bill as it progresses through Congress and provide you with updates.