

Morris, Alexander

HQ-2017-01051-F

From: Ann Brown <abrown@endangerearth.org> on behalf of foia@biologicaldiversity.org
Sent: Monday, May 08, 2017 3:53 PM
To: FOIA-Central
Cc: foia@biologicaldiversity.org;
Subject: Center for Biological Diversity FOIA RE: Review of National Monument Designations

Dear FOIA Officer:

Please find below in the body of this email, per your regulations, a FOIA request from the Center for Biological Diversity. We would appreciate DOE's acknowledgement of receipt of this FOIA request.

If you have any questions, please feel free to contact me. We look forward to your response.

Thank you,

Ann Brown
Filing Clerk | Endangered Species Program
Center for Biological Diversity
P.O. Box 11374
Portland, OR 97211-0374
abrown@endangerearth.org

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May 8, 2017

VIA ELECTRONIC MAIL

U.S. Department of Energy
1000 Independence Ave., SW
Washington, DC 20585
FOIA-Central@hq.doe.gov

Re: Freedom of Information Act Request: Review of National Monument Designations

Dear FOIA Officer:

This is a request under the Freedom of Information Act, 5 U.S.C. § 552, as amended ("FOIA"), from the Center for Biological Diversity ("Center"), a non-profit organization that works to secure a future for all species hovering on the brink of extinction through science, law, and creative media, and to fulfill the continuing educational goals of its membership and the general public in the process.

REQUESTED RECORDS

The Center requests the following records from the U.S. Department of Energy ("DOE"):

1. All records from January 20, 2017 to the date of this search that mention, include, or reference national monument designations made by any President of the United States since January 1, 1996 (See Attachment A. State by State Monuments List); and

2. All records mentioning, including, or referencing Exec. Order No. 13792, 82 F.R. 20429 (Apr. 26, 2017), "Review of Designations Under the Antiquities Act" (See Attachment B. Presidential Executive Order on the Review of Designations Under the Antiquities Act).

For this request, the term "all records" refers to, but is not limited to, any and all documents, correspondence (including, but not limited to, inter and/or intra-agency correspondence as well as correspondence with entities or individuals outside the federal government), emails, letters, notes, telephone records, telephone notes, minutes, memoranda, comments, files, presentations, consultations, biological opinions, assessments, evaluations, schedules, telephone logs, papers published and/or unpublished, reports, studies, photographs and other images, data (including raw data, GPS or GIS data, UTM, LiDAR, etc.), maps, and/or all other responsive records, in draft or final form.

This request is not meant to exclude any other records that, although not specially requested, are reasonably related to the subject matter of this request. If you or your office have destroyed or determine to withhold any records that could be reasonably construed to be responsive to this request, I ask that you indicate this fact and the reasons therefore in your response.

Under the FOIA Improvement Act of 2016, agencies are prohibited from denying requests for information under FOIA unless the agency reasonably believes release of the information will harm an interest that is protected by the exemption. FOIA Improvement Act of 2016 (Public Law No. 114-185), codified at 5 U.S.C. § 552(a)(8)(A).

Should you decide to invoke a FOIA exemption, please include sufficient information for us to assess the basis for the exemption, including any interest(s) that would be harmed by release. Please include a detailed ledger which includes:

1. Basic factual material about each withheld record, including the originator, date, length, general subject matter, and location of each item; and
2. Complete explanations and justifications for the withholding, including the specific exemption(s) under which the record (or portion thereof) was withheld and a full explanation of how each exemption applies to the withheld material.

Such statements will be helpful in deciding whether to appeal an adverse determination. Your written justification may help to avoid litigation.

If you determine that portions of the records requested are exempt from disclosure, we request that you segregate the exempt portions and mail the non-exempt portions of such records to my attention at the address below within the statutory time limit. 5 U.S.C. § 552(b).

The Center is willing to receive records on a rolling basis.

Finally, FOIA's "frequently requested record" provision was enacted as part of the 1996 Electronic Freedom of Information Act Amendments, and requires all federal agencies to give "reading room" treatment to any FOIA-processed records that, "because of the nature of their subject matter, the agency determines have become the subject of subsequent requests for substantially the same records." See 5 U.S.C. § 552(a)(2)(D)(ii)(I). Also, enacted as part of the 2016 FOIA Improvement Act, FOIA's Rule of 3 requires all federal agencies to proactively "make available for public inspection in an electronic format" "copies of records, regardless of form or format ... that have been released to any person ... and ... that have been requested 3 or more times." 5 U.S.C. § 552(a)(2)(D)(ii)(II). Therefore, we respectfully request that you make available online any records that the agency determines will become the subject of subsequent requests for substantially the same records, and records that have been requested three or more times.

FORMAT OF REQUESTED RECORDS

Under FOIA, you are obligated to provide records in a readily accessible electronic format and in the format requested. See, e.g., 5 U.S.C. § 552(a)(3)(B) ("In making any record available to a person under this paragraph, an agency shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format."). "Readily accessible" means text-searchable and OCR-formatted. See 5 U.S.C. § 552(a)(3)(B). We ask that you please provide all records in an electronic format. Additionally, please provide the records either in (1) load-ready format with a CSV file index or Excel spreadsheet, or; (2)

for files that are in .PDF format, without any “portfolios” or “embedded files.” Portfolios and embedded files within files are not readily accessible. Please do not provide the records in a single, or “batched,” .PDF file. We appreciate the inclusion of an index.

If you should seek to withhold or redact any responsive records, we request that you: (1) identify each such record with specificity (including date, author, recipient, and parties copied); (2) explain in full the basis for withholding responsive material; and (3) provide all segregable portions of the records for which you claim a specific exemption. 5 U.S.C. § 552(b). Please correlate any redactions with specific exemptions under FOIA.

REQUEST FOR FEE WAIVER

FOIA was designed to provide citizens a broad right to access government records. FOIA’s basic purpose is to “open agency action to the light of public scrutiny,” with a focus on the public’s “right to be informed about what their government is up to.” U.S. Dep’t of Justice v. Reporters Comm. for Freedom of Press, 489 U.S. 749, 773-74 (1989) (internal quotation and citations omitted). In order to provide public access to this information, FOIA’s fee waiver provision requires that “[d]ocuments shall be furnished without any charge or at a [reduced] charge,” if the request satisfies the standard. 5 U.S.C. § 552(a)(4)(A)(iii). FOIA’s fee waiver requirement is “liberally construed.” Judicial Watch, Inc. v. Rossotti, 326 F.3d 1309, 1310 (D.C. Cir. 2003); Forest Guardians v. U.S. Dept. of Interior, 416 F.3d 1173, 1178 (10th Cir. 2005).

The 1986 fee waiver amendments were designed specifically to provide non-profit organizations such as the Center access to government records without the payment of fees. Indeed, FOIA’s fee waiver provision was intended “to prevent government agencies from using high fees to discourage certain types of requesters and requests,” which are “consistently associated with requests from journalists, scholars, and non-profit public interest groups.” Ettliger v. FBI, 596 F.Supp. 867, 872 (D. Mass. 1984) (emphasis added). As one Senator stated, “[a]gencies should not be allowed to use fees as an offensive weapon against requesters seeking access to Government information” 132 Cong. Rec. S. 14298 (statement of Senator Leahy).

I. The Center Qualifies for a Fee Waiver.

Under FOIA, a party is entitled to a fee waiver when “disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the [Federal] government and is not primarily in the commercial interest of the requester.” 5 U.S.C. § 552(a)(4)(A)(iii). DOE FOIA regulations at 10 C.F.R. § 1004.9(a) establish the same standard.

Thus, the DOE must consider four factors to determine whether a request is in the public interest: (1) whether the subject of the requested records concerns “the operations or activities of the Federal government,” (2) whether the disclosure is “likely to contribute” to an understanding of government operations or activities, (3) whether the disclosure “will contribute to public understanding” of a reasonably broad audience of persons interested in the subject, and (4) whether the disclosure is likely to contribute “significantly” to public understanding of government operations or activities. 43 C.F.R. § 2.48(a)(1)-(4). As shown below, the Center meets each of these factors.

A. The Subject of This Request Concerns “The Operations and Activities of the Government.”

The subject matter of this request concerns the operations and activities of the DOE. This request asks for: (1) all records from January 20, 2017 to the date of this search that mention, include, or reference national monument designations made by any President of the United States since January 1, 1996 (See Attachment A); and (2) all records mentioning, including, or referencing Exec. Order No. 13792, 82 F.R. 20429 (Apr. 26, 2017), “Review of Designations Under the Antiquities Act” (See Attachment B).

B. Disclosure is “Likely to Contribute” to an Understanding of Government Operations or Activities.

The requested records are meaningfully informative about government operations or activities and will contribute to an increased understanding of those operations and activities by the public.

Disclosure of the requested records will allow the Center to convey to the public information about how the U.S. government is carrying out congressional mandates under the Antiquities Act, 54 U.S.C. § 320301 - 320303, Federal Land and Policy Management Act, 43 U.S.C. ch. 35 § 1701 (“FLPMA”), and National Forest Management Act, 16 U.S.C. §§ 1600 - 1611 (“NFMA”), inter alia. This request will reveal how the current administration makes decisions regarding protections of public lands and resources, specifically national monuments. The Center will glean from the records whether evidence exists of correspondence between government agencies and extractive and/or fossil fuel industries, and as such whether the key players in national monument designations have conflicts of interest that are related to seeking the review of national monuments. Once the information is made available, the Center will analyze it and present it to its 1.3 million members and online activists and the general public in a manner that will meaningfully enhance the public’s understanding of this topic.

Thus, the requested records are likely to contribute to an understanding of the DOE operations and activities.

C. Disclosure of the Requested Records Will Contribute to a Reasonably Broad Audience of Interested Persons’ Understanding of the Review of National Monument Designations

The requested records will contribute to public understanding of how the DOE actions are consistent with the Antiquities Act, FLPMA, and NFMA, amongst other relevant environmental laws. As explained above, the records will contribute to public understanding of this topic.

Designation of national monuments generally, and specifically the current administration’s review of past designations and possible collusion with industries that pose a threat to environmental health are areas of interest to a reasonably broad segment of the public. The Center will use the information it obtains from the disclosed records to educate the public at large about what basis federal agencies are utilizing to review national monument designations. See *W. Watersheds Proj. v. Brown*, 318 F.Supp.2d 1036, 1040 (D. Idaho 2004) (“... find[ing] that WWP adequately specified the public interest to be served, that is, educating the public about the ecological conditions of the land managed by the BLM and also how ... management strategies employed by the BLM may adversely affect the environment.”).

Through the Center’s synthesis and dissemination (by means discussed in Section II, below), disclosure of information contained and gleaned from the requested records will contribute to a broad audience of persons who are interested in the subject matter. *Ettlinger v. FBI*, 596 F.Supp. at 876 (benefit to a population group of some size distinct from the requester alone is sufficient); *Carney v. Dep’t of Justice*, 19 F.3d 807, 815 (2d Cir. 1994), cert. denied, 513 U.S. 823 (1994) (applying “public” to require a sufficient “breadth of benefit” beyond the requester’s own interests); *Cnty. Legal Servs. v. Dep’t of Hous. & Urban Dev.*, 405 F.Supp.2d 553, 557 (E.D. Pa. 2005) (in granting fee waiver to community legal group, court noted that while the requester’s “work by its nature is unlikely to reach a very general audience,” “there is a segment of the public that is interested in its work”).

Indeed, the public does not currently have an ability to easily evaluate the requested records, which concern national monument designation review that are not currently in the public domain – e.g., in the docket on regulations.gov. See *Cnty. Legal Servs. v. HUD*, 405 F.Supp.2d 553, 560 (D. Pa. 2005) (because requested records “clarify important facts” about agency policy, “the CLS request would likely shed light on information that is new to the interested public.”). As the Ninth Circuit observed in *McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1286 (9th Cir. 1987), “[FOIA] legislative history suggests that information [has more potential to contribute to public understanding] to the degree that the information is new and supports public oversight of agency operations... .”¹

Disclosure of these records is not only “likely to contribute,” but is certain to contribute, to public understanding of how the government is effectuating congressional mandates under various environmental laws, and how the administration’s decision making takes into account protections to public lands and national monuments. The public is always well served when it knows how the government conducts its activities, particularly matters touching on legal questions. Hence, there can be no dispute that disclosure of the requested records to the public will educate the public about the basis for review of national monument designations.

C. Disclosure is Likely to Contribute Significantly to Public Understanding of Government Operations or Activities.

The Center is not requesting these records merely for their intrinsic informational value. Disclosure of the requested records will significantly enhance the public's understanding of the basis for review of national monument designations as compared to the level of public understanding that exists prior to the disclosure. Indeed, public understanding will be significantly increased as a result of disclosure because the requested records will help reveal more about whether the key players in reviewing national monument designations have corresponded with extractive and/or fossil fuel industries, and the adverse impact these potential conflicts of interest would have on environmental health.

The records are also certain to shed light on the DOE compliance with the Antiquities Act, FLPMA, and NFMA, for example. Such public oversight of agency action is vital to our democratic system and clearly envisioned by the drafters of the FOIA. Thus, the Center meets this factor as well.

II. The Center has a Demonstrated Ability to Disseminate the Requested Information Broadly.

The Center is a non-profit organization that informs, educates, and counsels the public regarding environmental issues, policies, and laws relating to environmental issues. The Center has been substantially involved in the activities of numerous government agencies for over 25 years, and has consistently displayed its ability to disseminate information granted to it through FOIA.

In consistently granting the Center's fee waivers, agencies have recognized: (1) that the information requested by the Center contributes significantly to the public's understanding of the government's operations or activities; (2) that the information enhances the public's understanding to a greater degree than currently exists; (3) that the Center possesses the expertise to explain the requested information to the public; (4) that the Center possesses the ability to disseminate the requested information to the general public; (5) and that the news media recognizes the Center as an established expert in the field of imperiled species, biodiversity, and impacts on protected species. The Center's track record of active participation in oversight of governmental activities and decision making, and its consistent contribution to the public's understanding of those activities as compared to the level of public understanding prior to disclosure are well established.

The Center intends to use the records requested here similarly. The Center's work appears in more than 2,500 news stories online and in print, radio and TV per month, including regular reporting in such important outlets as The New York Times, Washington Post, and Los Angeles Times. Many media outlets have reported on national monuments and public lands utilizing information obtained by the Center from federal agencies including the DOE. In 2016, more than 2 million people visited the Center's extensive website, viewing a total of more than 5.2 million pages. The Center sends out more than 277 email newsletters and action alerts per year to more than 1.3 million members and supporters. Three times a year, the Center sends printed newsletters to more than 58,016 members. More than 233,000 people have "liked" the Center on Facebook, and there are regular postings regarding protections of public lands. The Center also regularly tweets to more than 52,200 followers on Twitter. The Center intends to use any or all of these far-reaching media outlets to share with the public information obtained as a result of this request.

Public oversight and enhanced understanding of the DOE's duties is absolutely necessary. In determining whether disclosure of requested information will contribute significantly to public understanding, a guiding test is whether the requester will disseminate the information to a reasonably broad audience of persons interested in the subject. *Carney v U.S. Dept. of Justice*, 19 F.3d 807 (2nd Cir. 1994). The Center need not show how it intends to distribute the information, because "[n]othing in FOIA, the [agency] regulation, or our case law require[s] such pointless specificity." *Judicial Watch*, 326 F.3d at 1314. It is sufficient for the Center to show how it distributes information to the public generally. *Id.*

III. Obtaining the Requested Records is of No Commercial Interest to the Center.

Access to government records, disclosure forms, and similar materials through FOIA requests is essential to the Center's role of educating the general public. Founded in 1994, the Center is a 501(c)(3) nonprofit conservation organization (EIN:

27-3943866) with more than 1.3 million members and online activists dedicated to the protection of endangered and threatened species and wild places. The Center has no commercial interest and will realize no commercial benefit from the release of the requested records.

IV. Conclusion

For all of the foregoing reasons, the Center qualifies for a full fee waiver. We hope that the DOE will immediately grant this fee waiver request and begin to search and disclose the requested records without any unnecessary delays.

If you have any questions, please contact me at (971) 717-6409 or foia@biologicaldiversity.org. All records and any related correspondence should be sent to my attention at the address below.

Sincerely,
 Margaret E. Townsend
 Open Government Staff Attorney
 CENTER FOR BIOLOGICAL DIVERSITY
 P.O. Box 11374
 Portland, OR 97211-0374
foia@biologicaldiversity.org

ATTACHMENT A

STATE	DESIGNATION DATE	ACRES
ALABAMA		
Birmingham Civil Rights Freedom Riders	Jan. 12, 2017 Jan. 12, 2017	0.88 5.96
ARIZONA		
Agua Fria	Jan. 11, 2000	71,100
Grand Canyon-Parashant	Jan. 11, 2000	1,054,264
Ironwood Forest	June 9, 2000	189,731
Vermillion Cliffs	Nov. 9, 2000	294,160
Sonoran Desert	Jan. 17, 2001	496,337
CALIFORNIA		
California Coastal "I"	Jan. 11, 2000	883
Pinnacles "VII"	Jan. 1, 2000	7,900
Giant Sequoia	April 15, 2000	327,769
Carrizo Plain	Jan. 17, 2001	246,048
Fort Ord	April 20, 2012	14,651
César E. Chávez	Oct. 8, 2012	10.50
California Coastal "II"	March 11, 2014	1,600
San Gabriel Mountains	Oct. 10, 2014	346,117
Berryessa Snow Mountain	July 10, 2015	330,780
Castle Mountains	Feb. 12, 2016	20,920
Mojave Trails	Feb. 12, 2016	1,600,000
Sand to Snow	Feb. 12, 2016	154,000
California Coastal "III"	Jan. 12, 2017	6,232
COLORADO		
Canyons of the Ancients	June 9, 2000	182,422
Chimney Rock	Sept. 21, 2012	4,726
Browns Canyon	Feb. 19, 2015	21,586
DELAWARE		
First State	March 25, 2013	1,108

HAWAII		
Honouliuli	Feb. 24, 2015	123
IDAHO		
Craters of the Moon "VI"	Nov. 9, 2000	661,287
Minidoka Internment	Jan. 17, 2001	73
ILLINOIS		
Pullman	Feb. 19, 2015	0.24
MARYLAND		
Harriet Tubman-Underground Railroad	March 25, 2013	11,750
MAINE		
Katahdin Woods and Waters	Aug. 23, 2016	87,563
MONTANA		
Pompeys Pillar	Jan. 17, 2001	51
Upper Missouri River Breaks	Jan. 17, 2001	494,451
NEW MEXICO		
Kasha-Katuwe Tent Rocks	Jan. 17, 2001	5,394
Rio Grande del Norte	March 25, 2013	242,555
Organ Mountains-Desert Peaks	May 21, 2014	498,815
Browns Canyon	Feb. 19, 2015	21,586
NEVADA		
Basin and Range	July 10, 2015	704,000
Gold Butte	Dec. 28, 2016	296,937
NEW YORK		
Governors Island	Jan. 19, 2001	22
African Burial Ground	Feb. 27, 2006	0.35
Stonewall	June 24, 2016	0.12
OHIO		
Charles Young Buffalo Soldiers	March 25, 2013	59.65
OREGON		
Cascade-Siskiyou	June 9, 2000	52,000
OREGON/CALIFORNIA		
Cascade-Siskiyou National Monument "II"	Jan. 12, 2017	48,000
SOUTH CAROLINA		
Reconstruction Era	Jan. 12, 2017	15.56
TEXAS		
Waco Mammoth	July 10, 2015	7.11
UTAH		
Grand Staircase-Escalante	Sept. 18, 1996	1,885,800
Bears Ears	Dec. 28, 2016	1,350,000
VIRGINIA		
Fort Monroe	Nov. 1, 2011	325.21
VIRGIN ISLANDS		
Buck Island Reef "III"	Jan. 17, 2001	18,135
WASHINGTON		
Hanford Reach	June 9, 2000	195,000
San Juan Islands	March 25, 2013	970
WASHINGTON, D.C.		
President Lincoln and Soldier's Home	July 7, 2000	2
Belmont-Paul Women's Equality	April 12, 2016	0.34

MARINE MONUMENTS*

AMERICAN SAMOA		
Rose Atoll Marine	January 6, 2009	11,400,364
ATLANTIC OCEAN		
Northeast Canyons and Seamounts Marine	Sept. 15, 2016	4,164,002
GUAM/NORTHERN MARIANAS ISLANDS		
Marianas Trench Marine	Jan. 6, 2009	80,700,105
HAWAII		
Papahānaumokuākea Marine	June 15, 2006	118,481,240
Papahānaumokuākea Marine "II"	Aug. 26, 2016	375,278,034
MINOR OUTLYING ISLANDS		
Pacific Remote Islands Marine	Jan. 6, 2009	73,641,727
Pacific Remote Islands Marine "II"	Sept. 25, 2014	416,145,936
VIRGIN ISLANDS		
Virgin Islands Coral Reef	Jan. 17, 2001	12,708
TOTAL ACRES		
Marine and terrestrial national monuments (acres)		1,091,756,053

* Marine national monument acreage is based on nautical square miles.

Source: Andy Kerr, *The Larch Company*

ATTACHMENT B

The White House
Office of the Press Secretary
For Immediate Release
April 26, 2017

Presidential Executive Order on the Review of Designations Under the Antiquities Act

EXECUTIVE ORDER

REVIEW OF DESIGNATIONS UNDER THE ANTIQUITIES ACT

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in recognition of the importance of the Nation's wealth of natural resources to American workers and the American economy, it is hereby ordered as follows:

Section 1. Policy. Designations of national monuments under the Antiquities Act of 1906, recently recodified at sections 320301 to 320303 of title 54, United States Code (the "Antiquities Act" or "Act"), have a substantial impact on the management of Federal lands and the use and enjoyment of neighboring lands. Such designations are a means of stewarding America's natural resources, protecting America's natural beauty, and preserving America's historic places. Monument designations that result from a lack of public outreach and proper coordination with State, tribal, and local officials and other relevant stakeholders may also create barriers to

achieving energy independence, restrict public access to and use of Federal lands, burden State, tribal, and local governments, and otherwise curtail economic growth. Designations should be made in accordance with the requirements and original objectives of the Act and appropriately balance the protection of landmarks, structures, and objects against the appropriate use of Federal lands and the effects on surrounding lands and communities.

Sec. 2. Review of National Monument Designations. (a) The Secretary of the Interior (Secretary) shall conduct a review of all Presidential designations or expansions of designations under the Antiquities Act made since January 1, 1996, where the designation covers more than 100,000 acres, where the designation after expansion covers more than 100,000 acres, or where the Secretary determines that the designation or expansion was made without adequate public outreach and coordination with relevant stakeholders, to determine whether each designation or expansion conforms to the policy set forth in section 1 of this order. In making those determinations, the Secretary shall consider:

(i) the requirements and original objectives of the Act, including the Act's requirement that reservations of land not exceed "the smallest area compatible with the proper care and management of the objects to be protected";

(ii) whether designated lands are appropriately classified under the Act as "historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest";

(iii) the effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land Policy and Management Act (43 U.S.C. 1701(a)(7)), as well as the effects on the available uses of Federal lands beyond the monument boundaries;

(iv) the effects of a designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries;

(v) concerns of State, tribal, and local governments affected by a designation, including the economic development and fiscal condition of affected States, tribes, and localities;

(vi) the availability of Federal resources to properly manage designated areas; and

(vii) such other factors as the Secretary deems appropriate.

(b) In conducting the review described in subsection (a) of this section, the Secretary shall consult and coordinate with, as appropriate, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Energy, the Secretary of Homeland Security, and the heads of any other executive departments or agencies concerned with areas designated under the Act.

(c) In conducting the review described in subsection (a) of this section, the Secretary shall, as appropriate, consult and coordinate with the Governors of States affected by monument designations or other relevant officials of affected State, tribal, and local governments.

(d) Within 45 days of the date of this order, the Secretary shall provide an interim report to the President, through the Director of the Office of Management and Budget, the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Chairman of the Council on Environmental Quality, summarizing the findings of the review described in subsection (a) of this section with respect to Proclamation 9558 of December 28, 2016 (Establishment of the Bears Ears National Monument), and such other designations as the Secretary determines to be appropriate for inclusion in the interim report. For those designations, the interim report shall include recommendations for such Presidential actions, legislative

proposals, or other actions consistent with law as the Secretary may consider appropriate to carry out the policy set forth in section 1 of this order.

(e) Within 120 days of the date of this order, the Secretary shall provide a final report to the President, through the Director of the Office of Management and Budget, the Assistant to the President for Economic Policy, the Assistant to the President for Domestic Policy, and the Chairman of the Council on Environmental Quality, summarizing the findings of the review described in subsection (a) of this section. The final report shall include recommendations for such Presidential actions, legislative proposals, or other actions consistent with law as the Secretary may consider appropriate to carry out the policy set forth in section 1 of this order.

Sec. 3. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

- (i) the authority granted by law to an executive department or agency, or the head thereof; or
 - (ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.
- (b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.
- (c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

DONALD J. TRUMP

THE WHITE HOUSE,
April 26, 2017.