

# United States Senate

WASHINGTON, DC 20510

February 16, 2018

The Honorable Ryan Zinke  
Secretary  
Department of the Interior  
1849 C Street, NW  
Washington, D.C. 20240

Dear Secretary Zinke:

We urge the Bureau of Land Management (BLM) to postpone the development of management plans for the Bears Ears and Grand Staircase Escalante National Monument areas in Utah until legal challenges regarding the President's authority to reduce the size of the monuments have been resolved. We also request that the Grand Staircase Escalante National Monument management plan remain in effect for all lands within the original monument boundary until resolution of the legal challenges.

The Antiquities Act of 1906 granted the President the authority to create new national monuments—it did not authorize subsequent Presidential modifications. United States Attorney General Homer Cumming confirmed this in his 1938 opinion stating that the Antiquities Act “does not authorize [the President] to abolish [national monuments] after they have been established.” In 1976, the Federal Land Policy and Management Act, which restated Congress' sole authority to modify monuments based on the Property Clause of the U.S. Constitution, was enacted. While there have been sixteen instances of a president reducing the size of an existing national monument, all of the previous reductions occurred prior to the enactment of the Federal Land Policy and Management Act. Since then no president has acted to reduce the size of a monument designated by a previous president. This limit to the President's authority was again recognized in 2004 when the Solicitor General stated in a brief that “Congress intended that national monuments would be permanent; they can be abolished only by Act of Congress.”

Native American, conservation, and paleontology groups have filed lawsuits challenging President Trump's legal authority to significantly reduce the size of both monuments. The outcome of these legal challenges may have significant impacts on the monuments' size and management. By moving forward with management plans prior to the resolution of the pending lawsuits, BLM could be leaving large swaths of land—full of important historic, cultural, ecological, and scientific resources—without proper protection.

Until it is clear that the President had the proper authority to shrink both the Bears Ears and Grand Staircase Escalante National Monuments, we urge you not to move forward with developing any management plans for these monuments.

Sincerely,



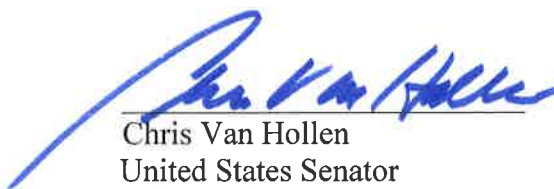
Richard J. Durbin  
United States Senator



Tom Udall  
United States Senator



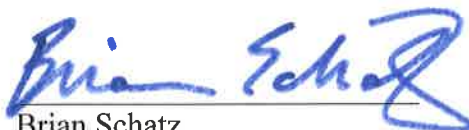
Debbie Stabenow  
United States Senator



Chris Van Hollen  
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