

**H.R. 4532, SHASH JÁA NATIONAL
MONUMENT AND INDIAN
CREEK NATIONAL MONUMENT
ACT—PART 1 AND 2**

LEGISLATIVE HEARING

BEFORE THE

SUBCOMMITTEE ON FEDERAL LANDS

OF THE

COMMITTEE ON NATURAL RESOURCES

U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

Tuesday, January 9, 2018 (Part 1)
Tuesday, January 30, 2018 (Part 2)

Serial No. 115-33

Printed for the use of the Committee on Natural Resources



Available via the World Wide Web: <http://www.govinfo.gov>
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U.S. GOVERNMENT PUBLISHING OFFICE

28-219 PDF

WASHINGTON : 2018

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**LEGISLATIVE HEARING ON H.R. 4532, TO
CREATE THE FIRST TRIBALLY MANAGED
NATIONAL MONUMENT, AND FOR OTHER
PURPOSES, “SHASH JÁA NATIONAL MONU-
MENT AND INDIAN CREEK NATIONAL
MONUMENT ACT”—PART 1**

**Tuesday, January 9, 2018
U.S. House of Representatives
Subcommittee on Federal Lands
Committee on Natural Resources
Washington, DC**

The Subcommittee met, pursuant to call, at 10:01 a.m., in room 1324, Longworth House Office Building, Hon. Tom McClintock [Chairman of the Subcommittee] presiding.

Present: Representatives McClintock, Pearce, Tipton, Bergman, Gianforte, Bishop (ex officio), Lowenthal, Gallego, Gomez, and Grijalva (ex officio).

Also Present: Representatives Curtis and Stewart.

Mr. McCLINTOCK. The hour of 10:00 having arrived, the Subcommittee on Federal Lands will come to order.

I would ask unanimous consent that the gentlemen from Utah, Mr. Curtis and Mr. Stewart, be allowed to sit with the Subcommittee and participate in the remainder of the hearing following the testimony.

Without objection, so ordered.

Under Committee Rule 4(f), any oral opening statements at hearings are limited to the Chairman, the Ranking Minority Member, and the Vice Chairman. This will also allow us to hear from our witnesses sooner and help Members keep to their schedules.

Therefore, I would ask unanimous consent that all other Members' opening statements be part of the hearing record if they are submitted to the Subcommittee Clerk by 5:00 p.m. today.

Without objection, so ordered.

We will now proceed to opening statements.

**STATEMENT OF THE HON. TOM McCLINTOCK, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF CALIFORNIA**

Mr. McCLINTOCK. Today, the Subcommittee on Federal Lands meets to consider H.R. 4532, the Shash Jáa National Monument and Indian Creek National Monument Act, by Congressman John Curtis and co-sponsored by the entire Utah congressional delegation.

The over-arching objectives of this Subcommittee bear repeating: to restore public access to the public lands, to restore good management to the public lands, and to restore the Federal Government

as a good neighbor to those communities most impacted by the public lands.

The Constitution gives sole jurisdiction over the public lands to the Congress. The Antiquities Act of 1906 delegated limited authority to the President to designate national monuments on Federal lands containing, “historic landmarks, historic and prehistoric structures, or other objects of historic or scientific interest.” The law also very specifically limited monuments to, “be confined to the smallest area compatible with proper care and management of the objects to be protected.” The aim was to protect newly-discovered archeological sites from looting.

When under consideration, Congressional Members expressed concern that the Act might be abused. One asked the bill’s sponsor, Congressman John Lacey, whether the Act could ever be used to lock up large areas of land. He responded, “Certainly not. The object is entirely different.”

President Theodore Roosevelt first used the Antiquities Act to declare 1,200 acres around the Devils Tower in Wyoming as a national monument—1,200 acres. Yet, in the waning days of the Obama administration, without any public hearings or consultation with Congress, and in direct contravention to the wishes of the Utah congressional delegation, the Utah state government, and the local and tribal governments in the affected jurisdictions, President Obama declared more than 1.3 million acres as the Bears Ears National Monument. This is a land area larger than the entire state of Delaware and 1,000 times larger than President Roosevelt’s first use of the law.

This designation carries severe restrictions on land use that limit public access and use of these public lands, that thwart good management of these lands, and that ignore the wishes of the local communities affected by these public lands.

It turns out this action was initiated by environmental groups in San Francisco, financed by millions of dollars from left-leaning foundations whose consistent purpose has been to lock the American people out of their own public lands. Its constituency appears to be almost exclusively drawn from out-of-region and out-of-state interests.

Last month, President Trump modified Obama’s Executive Order to comport with the limitations set forth in the Antiquities Act.

Today, Congressman Curtis, backed with the unanimous support of the Utah congressional delegation, brings us H.R. 4532, which reasserts Congress’ sole constitutional authority over this issue.

It establishes two national monuments in San Juan County, Utah: the Shash Jáa National Monument, the first tribally co-managed national monument in the Nation, and the Indian Creek National Monument.

The bill also establishes a first-of-its-kind Archeological Resources Protection Unit, statutorily dedicating additional law enforcement personnel and Federal dollars for the exclusive protection of antiquities within the monuments’ boundaries.

When the Norman and Plantagenet Kings of England locked up millions of acres of forest as the private preserve of the crown, public outreach became so great that in 1215 no fewer than five clauses of the Magna Carta were devoted to redress this abuse.

The American Founders learned these lessons and created our Constitution, in which no one person would have the authority to lock up millions of acres of land with the stroke of a pen.

The American public lands are the opposite of the King's Forest. They are intended to preserve these lands for the people's, "use, resort, and recreation . . . for all time," as first put forth in the Yosemite Charter of 1864.

By giving Congress, and not the President, authority over public land, our Constitution guarantees that all voices will be heard when a decision affecting millions of acres of land is made.

Under our Constitution, the people expect their government to listen to those most affected by local land use decisions, and not just out-of-state special interest groups. And they have every right to demand that Congress re-assert its role over management of the lands on their behalf.

This bill seeks to right a wrong and to go about monument designation the constitutional way, through open hearings, open debate, and congressional action.

[The prepared statement of Mr. McClintock follows:]

PREPARED STATEMENT OF THE HON. TOM MCCLINTOCK, CHAIRMAN, SUBCOMMITTEE
ON FEDERAL LANDS

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It turns out this action was initiated by environmental groups in San Francisco, financed by millions of dollars from left-leaning foundations whose consistent purpose has been to lock out the American public from the public lands. Its constituency appears to be almost exclusively drawn from out-of-region and out-of-state interests.

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Under our Constitution, the people expect their government to listen to those most affected by local land use decisions, and not just out-of-state special interest groups. And they have every right to demand that Congress reassert its role over management of the lands on their behalf.

This bill seeks to right a wrong and to go about monument designation the constitutional way: through open hearings, debate and congressional action.

Mr. MCCLINTOCK. I now recognize the Ranking Member for his opening statement.

STATEMENT OF THE HON. ALAN S. LOWENTHAL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

Mr. LOWENTHAL. Thank you, Mr. Chairman.

First, I would like to thank all of the witnesses for traveling so far to be with us.

I must say this hearing feels a little bit like *déjà vu*. Just 3 weeks ago, right before the holiday district period, we had a hearing on a similar rushed piece of legislation to provide cover for President Trump's illegal elimination of the Grand Staircase-Escalante National Monument.

And now here we go again, our second day back in the new year, considering legislation to cover up the President's elimination and reconfiguration of Bears Ears National Monument.

Let's be clear, tribes advocated for years to protect the area, whether through legislation or through an Antiquities Act proclamation, though it was the initial hope of the tribes that a legislative agreement could be reached.

At first, the obvious vehicle for protecting the area was Chairman Bishop's Utah Public Lands Initiative. For more than a year, tribal governments worked in good faith to have their voices heard. Tribal representatives participated in meetings in Utah and here in DC, submitted proposals, and asked for feedback.

Ultimately, the Bears Ears Inter-Tribal Coalition, a historic coalition representing the five tribes connected to Bears Ears, felt cut out of the process and left the negotiating table. They then

turned to their only remaining option, a presidential proclamation under the Antiquities Act.

Contrary to what opponents of President Obama's creation of Bears Ears National Monument say, the designation was not some fly-by-night, last-minute proclamation. The plan was not kept secret or hidden from Utah's political representatives.

In fact, e-mails and documents obtained by the Democratic Committee staff show that as far back as 2013, the administration began communication with the Utah delegation, the Utah Governor's Office, the Bears Ears Inter-Tribal Coalition, and other key regional stakeholders to begin working to protect Bears Ears landscape.

The Obama administration worked closely with the delegation staff up until the Committee marked up the Chairman's bill in the fall of 2016. But when it became clear that the Chairman's bill was not going to make it across the finish line, President Obama signed the proclamation to establish Bears Ears National Monument.

For a brief moment, it felt like a victory for all the stakeholders—the proclamation was balanced and full of compromise. But by April 2017, facts about the creation of the monument and its permitted uses began being obscured, in some cases outright ignored.

It no longer mattered that President Obama's proclamation allowed activities such as rock climbing, hunting, backpacking, white water rafting, biking, and horseback riding, or that the traditional Native cultural uses were recognized, including collection of medicines, berries, firewood, and other vegetation.

Instead, the public was told by monument opponents that all those things would be limited under the Obama proclamation.

Ironically, President Trump's proclamation is silent on recreational and Native rights, so as things stand today, access to gather firewood or plants for religious and cultural purposes is in limbo.

If this legislation was truly intended to protect the outdoor recreation economy of Utah, it would incorporate my bill, America's Red Rock Wilderness Act. But, sadly, this legislation before us today is hastily written and does nothing to codify the wilderness study areas in Utah, leaving them in a perpetual purgatory of land management indecision and allowing my colleagues to continue to vilify the BLM when it is really Congress that refuses to act.

Last, I would like to reiterate this bill directly affects five tribal nations. If the primary objective of this legislation were to truly increase tribal participation in the management of Bears Ears, we would have representatives from each of the nations here.

If we were actually seeking to honor tribal concerns, we would be holding a hearing on H.R. 4518, a bill with nearly 100 co-sponsors introduced by Representative Gallego to expand the Bears Ears National Monument.

I am grateful that we will be able to hear from Shaun Chapoose, a member of the Ute Business Council. However, I think it would be beneficial to hear from even more tribal voices, so I would like to submit this letter requesting a second hearing with witnesses invited by the Minority. I ask unanimous consent that this letter be part of the hearing record.

Thank you, Mr. Chair. I look forward to hearing from the witnesses, and I hope that in the future we hold a more balanced hearing.

[The prepared statement of Mr. Lowenthal follows:]

PREPARED STATEMENT OF THE HON. ALAN S. LOWENTHAL, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF CALIFORNIA

Thank you, Mr. Chairman.

I would like to thank the witnesses for being here today, especially since many of you traveled so far to be here with us.

I must say that his hearing feels a bit like *déjà vu*. Just 3 weeks ago—right before the holiday district work period—we had a hearing on a similar rushed piece of legislation to provide cover for President Trump’s illegal elimination of the Grand Staircase-Escalante National Monument.

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Tribes advocated for years to protect the area, whether through legislation or an Antiquities Act proclamation, though it was the initial hope of the tribes that a legislative agreement could be reached.

At first, the obvious vehicle for protecting the area was Chairman Bishop’s Utah Public Lands Initiative. For more than a year, tribal governments worked in good faith to have their voices heard. Tribal representatives participated in meetings in Utah and DC, submitted proposals, and asked for feedback.

Ultimately, the Bears Ears Inter-Tribal Coalition—a historic coalition representing the five tribes most connected to Bears Ears—felt cut out of the process and left the negotiating table. They then turned to their only remaining option: a presidential proclamation under the Antiquities Act.

Contrary to what opponents of President Obama’s creation of Bears Ears National Monument say, the designation was not some fly-by-night, last-minute proclamation. The plan was not kept secret or hidden from Utah’s political representatives.

In fact, e-mails and documents obtained by Democratic Committee staff show that as far back as 2013, the administration began communication with the Utah delegation, the Utah Governor’s Office, the Bears Inter-Tribal Coalition, and other key regional stakeholders working to protect the Bears Ears landscape.

The Obama administration worked closely with the delegation staff up until the Committee marked up the Chairman’s bill in the fall of 2016. But when it became clear that the Chairman’s bill was not going to make it across the finish line, President Obama signed the proclamation to establish Bears Ears National Monument.

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It no longer mattered that President Obama’s proclamation allowed activities such as rock climbing, hunting, backpacking, whitewater rafting, biking, and horseback riding—or that traditional Native cultural uses were recognized, including collection of medicines, berries, firewood and other vegetation.

Instead, the public was told by monument opponents that such would be limited under the Obama proclamation.

Ironically, President Trump’s proclamation is silent on recreational and Native rights, so as things stand today, access to gather firewood or plants for religious and cultural purposes is in limbo.

If this legislation was truly intended to protect the outdoor recreation economy of Utah, it would incorporate my bill, the America’s Red Rock Wilderness Act. But, sadly, this legislation before us today is hastily written and does nothing to codify any of the Wilderness Study Areas in Utah, leaving them in a perpetual purgatory of land management indecision and allowing my colleagues to continue to vilify the BLM when it is really Congress who refuses to act.

Last, I would like to reiterate this bill directly affects five tribal nations. If the primary objective of this legislation were truly to increase tribal participation in the management of Bears Ears, we would have representatives from each nation here to testify.

If we were actually seeking to honor tribal concerns, we would be holding a hearing on H.R. 4518, a bill with nearly 100 co-sponsors introduced by Representative

Gallego to expand the Bear Ears National Monument to 1.9 million acres, in accordance with the initial proposal put forward by the Inter-Tribal Coalition.

I am grateful that we will be able to hear from Shaun Chapoose, a member of the Ute Business Council. However, I think it would be beneficial to hear from even more tribal voices, so I would like to submit this letter requesting a second hearing with witnesses invited by the Minority. I ask unanimous consent that letter is part of the hearing record.

So, I look forward to hearing from the witness today and I hope that we can hold a more balanced hearing at a future date.

Mr. MCCLINTOCK. Without objection, the letter will be received.
[The information follows:]

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON NATURAL RESOURCES,
WASHINGTON, DC

January 9, 2018

Hon. TOM MCCLINTOCK, *Chairman,*
Federal Lands Subcommittee,
Natural Resources Committee,
1324 Longworth House Office Building,
Washington, DC 20515.

Dear Chairman:

Today, the Subcommittee on Federal Lands will hold a hearing on H.R. 4532—the Shash Jáa National Monument and Indian Creek National Monument Act. While we applaud the focus on national monuments, we are concerned that the witness panel does not reflect a fair representation of the stakeholders affected by this legislation. The bill doubles down on President Trump’s recent action to abolish the Bears Ears National Monument, an area that tribal communities have been fighting for years to protect. Except for one witness invited by the minority, the panel does not include an official government representative from any of the five tribal nations linked to the monument.

The Committee should hear from a wider range of tribally elected leaders, scientists, and other experts to examine ways we can improve the management of Bears Ears under Proclamation 9558.

Pursuant to Rule XI of the Rules of the House and Rule 4 of the Rules of the Committee on Natural Resources, the undersigned Members of the Committee hereby request a further hearing on the H.R. 4532, during which witnesses selected by the Minority shall be allowed to testify.

Sincerely,

Raúl M. Grijalva,
Ranking Member

Alan Lowenthal,
Member of Congress

Ruben Gallego,
Member of Congress

A. Donald McEachin,
Member of Congress

Jimmy Gomez,
Member of Congress

Anthony Brown,
Member of Congress

Mr. MCCLINTOCK. I would point out to the gentleman that I had a conversation with the Ranking Member, Ms. Hanabusa, a few weeks ago in which I pointed out that the hearing structure of witnesses for this Subcommittee is the same as it was under Democratic majorities. In fact, we took those rules from the Democratic Majority.

I told her, however, that if there was ever any concern that she had that there were insufficient witnesses on the Minority side to

come to me personally and we would work out an arrangement. No such undertaking has been made, and I find this action objectionable and highly distressing.

The Chair notes that we are joined by the Chairman and Ranking Member of the Natural Resources Committee. I will now, without objection, recognize the Chairman for 5 minutes.

**STATEMENT OF THE HON. ROB BISHOP, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF UTAH**

Mr. BISHOP. Thank you.

And I thank Mr. Lowenthal, the gentleman from California. We have had great trips together. I like you. You are wrong, but I like you. And also the staff data that was given to you was wrong. There was never a markup on our PLI bill.

We were promised data coming from the Interior Department that did not show up. We were also promised language for co-management that never appeared. And when the President made the Bears Ears declaration, it shut the process down. So, that is what actually took place.

And if you look very carefully at those e-mails that you mentioned, you will find out that they were very vague and they did not give specifics as to what the President was planning.

Satchel Paige is one of my favorite all-time baseball players, great pitcher. At one time he was trying to help some young pitchers to hit the corners of the plate. They were missing it wildly. Finally, in frustration, he said, "Just throw strikes, home plate doesn't move."

That is one of the issues that we have here today. President Obama, while golfing in Hawaii, created a national monument that was not even close to home plate. His ball was actually in a different ZIP code.

Secretary Zinke flew over this area in a helicopter, went on horseback. What he threw was a strike. And now what we have from special interest groups are trying to change the false narrative of the past to a present narrative to make it reasonable by moving home plate. But home plate simply doesn't move.

The big lie that we have heard in the past was we are trying to protect this area from oil and gas exploration and mining. That is off the table, and I think Mr. Curtis will explain how that is off the table in his particular legislation, because it never really was part of it there.

Representative Curtis, in his bill, is throwing strikes. Whereas, the opposition from special interest groups are throwing balls that basically are going over the backstop. There is a commission that has no authority, that was established by President Obama. That will still exist. But what we will do new in the Curtis bill is the idea of co-management will be real, not a fraud, but it will be real.

Law enforcement, which is important for this area, does not exist in the management plan or in the management declaration. But in the Curtis bill, there is actually money that is appropriated and manpower that is mandated that is real and different.

What Curtis is doing, and those who will be talking about his particular bill, are throwing lots of strikes. Some of the other interest groups out there are throwing lots of balls. But the bottom line

is, home plate doesn't move. And it doesn't matter what you want to try to move it, it still doesn't move. We need to concentrate on the strikes, not the balls.

I yield back.

Mr. MCCLINTOCK. Without objection, the Chair now recognizes the Ranking Member of the Natural Resources Committee for 5 minutes.

STATEMENT OF THE HON. RAÚL M. GRIJALVA, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF ARIZONA

Mr. GRIJALVA. Thank you, Mr. Chairman.

And let me just reiterate the point that Ranking Member Lowenthal just made, that the process for the establishing of the Bears Ears Monument had an intimate, ongoing, and comprehensive involvement on the part of Native Nations—five—in not only the construct of the designation and the content of the designation but input into what the scientific, historic, cultural, and sacred sites were indeed.

And to now, at this point, at this juncture, to eliminate that work in one fatal swoop, I think is very, very arrogant on the part of Congress. It is arrogant on the part of this legislation, given that tribal nations were given, rightfully so, under the Constitution, the ability to be sovereign and, more importantly, the ability to consult, confer, and reach consensus with the Federal Government.

This bill effectively turns that upside down. And we are going back to a time in history in which we are the givers of, as opposed to the allies of, the cooperative government that we should be with Native Nations.

I think that is at the crux of the legislation. That is at the crux of the repeal of the designation. And that is at the crux of this particular piece of legislation, to take us back in time, a time that we all thought was way behind us.

I yield back, and I will save my time for questions. Thank you.

Mr. MCCLINTOCK. Thank you.

The Chair now recognizes the Honorable John Curtis of Utah for 5 minutes to present his bill.

STATEMENT OF THE HONORABLE JOHN R. CURTIS, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF UTAH

Mr. CURTIS. Mr. Chairman, I appreciate the opportunity today to testify on my bill, H.R. 4532, the Shash Jáa National Monument and Indian Creek National Monument Act.

I would like to thank the entire Utah delegation for supporting this legislation, especially Chairman Rob Bishop and the Natural Resources Committee staff for their continued work on this issue for many years. This bill would not be possible without their many years of work and the work of those who preceded me.

I would also like to thank the Chairman and the Ranking Member for holding this hearing.

While it is difficult to overstate how politicized the creation and management of our national monuments has become, I believe all sides of this debate share many common goals, where we can still work together to protect this area for generations to come.

These goals include a high priority on protecting and preserving both antiquities and the natural beauty of this area, as well as maintaining traditional uses of the land. I believe H.R. 4532 meets these high standards of expectations.

I also believe that moving swiftly to find solutions is critical. The two presidential declarations have brought worldwide attention to this area but have done little to put a plan in place or boots on the ground to protect and preserve.

My bill seeks to create a management plan that maintains multiple use of Federal lands and protects our most precious national treasures. This can best be accomplished by using the legislative process, including the constitutionally mandated system of checks and balances, when making decisions that affect such large areas of land.

Over the past several weeks, many Utahns have contacted my office to share their views about these national monuments and about my proposed legislation, and I hope they continue to do so.

Additionally, we are fortunate today to have several of Utah's elected officials, including our great governor, Governor Gary Herbert, here to give their perspective on how these lands should be managed. And I would like to personally thank him for his trip here today.

Congress is the portion of our Federal Government most directly connected to the American people. It requires broad consensus to put a new idea into law, and it is why we, as Members of Congress, must act on this issue.

The bill we are discussing today will protect lands in southeastern Utah, in my district, and it will do it the right way. This bill will create the first-ever tribally co-managed national monument. This changes the top-down management from Washington, DC and installs those closest to the land who understand it best as their stewards.

This bill empowers Utah's local tribes and community leaders to properly manage these areas. This bill creates real protection for important areas, above and beyond what any president can achieve by creating a national monument using the Antiquities Act.

The bill provides at least 10 law enforcement personnel at each of these two monuments to protect important areas—right now, this is taken care of by two BLM agents, imagine that—and it creates an Archeological Resources Protection Unit to ensure the safety of these important resources.

This bill has a mineral withdrawal from the original 1.35 million acre designation under President Obama. The bill is about protecting areas, not opening mining, or oil and gas development.

Perhaps most important, this bill creates long-term certainty for my constituents. By using the legislative process, this area will be protected for generations to come in law, not subject to change by a stroke of a pen.

I look forward to coming together, finding common ground, and working toward the shared goal of protecting the national treasures we are blessed with in our great state of Utah.

And with that, I yield my time, Mr. Chairman.

[The prepared statement of Mr. Curtis follows:]

PREPARED STATEMENT OF THE HON. JOHN R. CURTIS, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF UTAH

Mr. Chairman, I appreciate the opportunity today to testify on my bill, H.R. 4532, the Shash Jaa National Monument and Indian Creek National Monument Act.

I would like to thank the entire Utah delegation for supporting this legislation, especially Chairman Rob Bishop and the Natural Resources Committee staff, for their continued work on this issue. This bill would not be possible without their many years of work and by the work of those preceding me.

I would also like to thank Chairman McClintock and Ranking Member Hanabusa for holding this hearing. While it is difficult to overstate how politicized the creation and management of our national monuments has become, I believe all sides of this debate share many common goals where we can still work together to protect these areas for generations to come.

These goals include a high priority on protecting and preserving both antiquities and the natural beauty of the area, as well as maintaining traditional uses of the land. I believe H.R. 4532 meets the high standard of these expectations.

I also believe that moving swiftly to find solutions is critical. The two presidential declarations have brought worldwide attention to this area but have done little to put a plan in place or boots on the ground to protect and preserve.

My bill seeks to create a management plan that maintains multiple use of Federal lands and protects our most precious national treasures. This can best be accomplished by utilizing the legislative process, including the constitutionally mandated system of checks and balances, when making decisions that affect such large areas of land.

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This bill empowers Utah's local tribes and community leaders to properly manage these areas. This bill creates real protection for important areas, above and beyond what any president can achieve by creating a National Monument using the Antiquities Act.

This bill provides at least 10 law enforcement personnel at each monument to protect important areas, and creates Archaeological Resources Protection Units to ensure the safety of important resources.

This bill also has a mineral withdrawal for the original 1.35 million-acre designation under President Obama. This bill is about protecting areas, not opening mining, or oil and gas, development.

Perhaps most important, this bill creates long-term certainty for my constituents. By using the legislative process, this area will be protected for generations to come in law, not subject to change by the stroke of a pen.

I look forward to coming together, finding common ground, and working toward the shared goal of protecting the national treasures we are blessed with in the great state of Utah.

Mr. MCCLINTOCK. Great. I would thank you for your testimony and invite you to join the Subcommittee, and, again, thank you for bringing your bill to us today.

If there are no questions of Mr. Curtis, and seeing none, we will go right to the second panel.

We welcome our second panel, and are particularly honored to have with us today the governor of the state of Utah, the

Honorable Governor Gary R. Herbert, who comes to us from Salt Lake City, Utah.

Governor Herbert, we are very honored by your presence here today. Thank you for joining us and you are recognized for 5 minutes.

**STATEMENT OF THE HONORABLE GARY HERBERT,
GOVERNOR, STATE OF UTAH, SALT LAKE CITY, UTAH**

Governor HERBERT. Thank you very much.

I am honored to be here. And Chairman McClintock and Representative Lowenthal, thank you for inviting me here today to offer input on H.R. 4532, the Shash Jáa National Monument and Indian Creek National Monument Act.

I also thank Chairman Rob Bishop and Representative John Curtis for developing this legislation and moving so quickly to hold this hearing.

I understand this is a contentious topic, and there are well-meaning people on both sides of the debate with strong feelings. The areas we are discussing in San Juan County and southeastern Utah are beautiful and majestic. They deserve protection. I believe that what we all want is to protect the antiquities in this area, but the question is how and through what means.

It will come as no surprise that I supported President Trump's proclamation last month. But whether or not you agree with a proclamation, we now find ourselves with a reset and the opportunity to move forward with a legislative effort that enhances and approves the processes whereby we protect the area.

That is where I would like to focus my remarks today—looking to the future and highlighting the reasons I think Representative Curtis' bill helps us protect the antiquities in this area by including those most impacted by land management decisions, including the Native Americans, in the actual stewardship of these lands.

Thomas Jefferson said that, "the government closest to the people serves the people best." That certainly applies to management of public lands. I am pleased to see this legislation move us in that direction with the innovative use of management councils.

These councils exemplify the concept of cooperative federalism, with seats on these councils mandated for Federal, county, and tribal representatives who will work together to develop management plans for the monuments.

In our experience, the looting and vandalism in the area is not from lack of legal protections but from a lack of law enforcement and appropriate education.

Utah's antiquities section coordinator, who is a neutral and objective party in this debate, shared with me the following: lines on a map do not protect archeological resources. Protection comes from ongoing education for visitors about respecting those treasures and enforcement of the laws prohibiting looting and vandalism.

Unlike the original monument designation that protected the name only, this bill provides for increased law enforcement. Representative John Curtis' bill creates an Archeological Resources Protection Unit for each monument and, additionally, mandates that at least 10 law enforcement personnel be assigned to each monument.

The bill also gives Utah the ability to exchange state land within the monumental boundaries for lands elsewhere of equal value. That is an important opportunity to consolidate our trust lands so that we may generate needed funds for Utah's schoolchildren.

It is important to note this bill precludes any type of mining or development of oil or gas within the boundaries of the 1.35 million acres of the original Bears Ears Monument. This should put to rest any argument that the monument was reduced in order to advance energy development.

I would also note that the lands within the original Bears Ears National Monument proclaimed in December of 2016 by President Obama were protected under a host of Federal Government laws long before this proclamation. All those Federal protections are still in effect today regardless of monument status or arbitrary lines on a map.

A selection of the Federal laws governing and protecting these historic lands include the National Historic Preservation Act of 1966, the Archeological Resources Protection Act of 1979, Native American Graves Protection Repatriation Act of 1990, and the Pathological Resources Preservation Act of 2009.

Moreover, the BLM's 2008 Monticello Resource Management Plan includes dozens of environmental protections for these lands, many of them drawn from the aforementioned laws, and they are still in effect here today.

Despite these pre-existing protections, the current ones, and newly proposed ones, I recognize that there will continue to be controversy and debate over these remarkable areas. The question is, does there really need to be this controversy?

Perhaps I am an idealist, but I hope that we can come together and work in good faith, recognizing that we all want these lands to remain public and that we all want to protect their history, archeology, and unique nature.

We certainly want our children and grandchildren to be able to enjoy them just as we do. I think if we will ascribe good motives to each other, we will be more likely to have a productive conversation and more likely to reach an optimal solution for the use of our public lands that everyone can agree to and live with.

Last, I would like to encourage the Committee's efforts to reform the Antiquities Act. Like most of what Congress does, the Antiquities Act of 1906 was well-intentioned, but it requires updating and modernization.

I have long said it is not the use of the Antiquities Act, but rather the abuse of the Antiquities Act by presidents of both parties, that now requires Congress to carefully review this law.

A great start would be Congressman Bishop's legislation that requires more public input and local buy-in based on the size of a proposed monument. I believe that this is a good bill that deserves your consideration and support.

Thank you very much.

[The prepared statement of Governor Herbert follows:]

PREPARED STATEMENT OF THE HON. GARY R. HERBERT, GOVERNOR OF THE
STATE OF UTAH

Chairman McClintock and Ranking Member Hanabusa, thank you for inviting me here today to offer input on H.R. 4532, the Shash Jaa National Monument and Indian Creek National Monument Act. I also thank Chairman Rob Bishop and Representative John Curtis for developing this legislation and moving so quickly to hold this hearing.

I understand this is a contentious topic and there are well-meaning people on both sides of the debate with strong feelings. The areas we're discussing in San Juan County in southeastern Utah are beautiful and majestic. They deserve protection. I believe that what we *all* want is to protect the antiquities in this area, but the question is how and through what means.

It will come as no surprise that I supported President Trump's proclamation last month. But whether or not you agree, we now find ourselves with a reset and the opportunity to move forward with a *legislative* process for protecting this area. And that is where I'd like to focus my remarks today—looking to the future and highlighting the reasons I think Representative Curtis' bill helps us protect the antiquities in this area while also including those most impacted by land management decisions in the actual stewardship of these lands, including Native American tribes.

Jefferson said that "the government closest to the people serves the people best" and that certainly applies to managing public lands. I'm pleased to see this legislation move us in that direction with the innovative use of management councils. These councils exemplify the concept of cooperative federalism, with seats mandated for Federal, county, and tribal representatives who will work *together* to develop management plans for the monuments.

In our experience, the looting and vandalism in the area is not from lack of legal protections, but from lack of law enforcement. Unlike the original monument designation that protected in name only, this bill provides for increased law enforcement. Rep. Curtis' bill creates an Archaeological Resources Protection Unit for each monument and, additionally, mandates that at least 10 law enforcement personnel be assigned to each monument.

Additionally, this bill precludes any type of mining or development of oil or gas within the boundaries of the 1.35 million acres of the original Bears Ears Monument. This should put to rest any suspicion that the monument was reduced in order to advance energy development.

Finally, the bill gives Utah the ability to exchange state land within the monument boundaries for lands elsewhere of equal value. That's an important opportunity to consolidate our lands and generate funds for Utah's schoolchildren.

In conclusion, I'd like to encourage the Committee's efforts to reform the Antiquities Act. Like most of what Congress does the Antiquities Act of 1906 was well-intentioned, but it requires modernization. I have long said it is not the use of the Antiquities Act, but rather the abuse of the Antiquities Act—by presidents of both parties—that requires Congress to carefully review this law. A great start would be Congressman Bishop's legislation that requires more public input and local buy-in based on the size of the proposed monument.

I recognize there will continue to be controversy and debate over these remarkable areas. The question is, does there really need to be? Perhaps I am an idealist, but I hope we can come together and work in good faith, recognizing that we *all* want these lands to remain public, and we all want to protect their history, archaeology, and unique nature. We certainly all want our children and grandchildren to be able to enjoy them as we do. I think when we ascribe good motives to each other, we'll be more likely to have a productive conversation and more likely to reach an optimal solution for the use of our public lands that everyone can live with.

Again, I thank you for the opportunity to testify and I'm happy to answer any questions.

Mr. MCCLINTOCK. Great. Thank you very much for your testimony, Governor.

Our next witness is the honorable Shaun Chapoose. He is the Ute Tribal Business Committee member from the Ute Indian Tribe. He comes to us today from Fort Duchesne, Utah. Welcome.

**STATEMENT OF THE HONORABLE SHAUN CHAPOOSE,
MEMBER, UTE TRIBAL BUSINESS COMMITTEE, UTE INDIAN
TRIBE, FORT DUCHESNE, UTAH**

Mr. CHAPOOSE. Members of the Subcommittee, thank you for the opportunity to testify on H.R. 4532. I am an elected member of the Indian Tribe Business Committee. I am accompanied by a Navajo Nation delegate, Davis Filfred. We are both Bears Ears commissioners.

I would also like to recognize Navajo Nation President Russell Begaye, and also Vice Chairman Councilman Tony Small, who represents my tribe.

I am testifying on behalf of the Bears Ears Inter-Tribal Coalition. The Coalition includes the Ute Indian Tribe, the Navajo Nation, Ute Mountain Ute Tribe, Zuni Tribe, and Hopi Tribe. Our five tribes came together for Bears Ears National Monument and to protect the hundreds of thousands of priceless objects and sacred sites within the monument. It is important that we understand we are all federally recognized tribes with formal governments.

The Coalition strongly opposes the bill, and it improves the President's unlawful action attempting to dismantle the monument. The bill pours salt on a wound caused by the President's action. Instead of this bill, the Subcommittee should be holding a hearing on H.R. 4518, the Bears Ears National Monument Expansion Act, introduced by Congressman Gallego. H.R. 4518 has 98 co-sponsors. This bill only has three co-sponsors.

At the minimum, today's hearing should have provided equal time for both bills. Before I get into the problems with this bill, it is important to recognize the number of tribes cut out of this hearing. Our coalition is made up of five tribes, federally recognized sovereign tribes with our own government-to-government relationship with the United States.

This relationship was recognized in the Constitution long before Utah became a state. But here, at this witness table, our five tribes are forced onto one seat. Meanwhile, every level of the state is here. You have the state government, a private citizen from Utah, the San Juan County region, and the Utah lobbying group.

The Subcommittee should provide a full hearing on the bill, problems with all of the tribes affected. The bill's problem can only be understood through the history of the Bears Ears National Monument.

Our tribe and the Utah Diné Bikéyah, a local Utah Navajo organization, worked for decades to study the hundreds of thousands of objects and sites in the Bears Ears. To protect these sites, we defined a 1.9 million acre monument. President Obama reduced the monument by 30 percent to 1.35 and created the Bears Ears Commission to manage the monument. This was by far the smallest area possible as stated in the Antiquities Act.

Then in an unprecedented and unlawful move, President Trump attempted to dismantle the monument and create smaller isolated monuments, including about 200,000 acres, an additional 85 percent reduction. This is no longer the smallest area possible. Instead, this small area that the bill would enact into law leaves most of the resource unprotected.

We need weeks for you to see and understand the hundreds of thousands of objects and sites the bill leaves unprotected. I brought photos of just a few. As all of these and thousands more meet the requirement of the Antiquities Act and are in need of protection, there is no legal or scientific reason to exclude these objects and sites, only political reasons.

The politics are clear—not a single sovereign tribe was consulted in this bill. Misleading statements from some in Congress and the Administration forces me to say here that talking with an individual tribal member is not government-to-government consultation. This should be obvious.

The many problems with this bill demonstrate the lack of consultation with actual tribal governments. First, the bill violates the United States government-to-government relationship with our tribes.

For example, we were shocked by the name Shash Jáa Tribal Management Council. Nothing about this council is true tribal management. Instead, the council is a return to the 1800s, when the United States would divide tribes and pursue its own objectives by cherry-picking tribal members it wanted to negotiate with. It is up to the sovereign tribal government, not the United States, to select our own representatives.

Second, under the bill, the true tribal management council, the Bears Ears Commission, is required to filter its comments through non-Federal, non-tribal, state representatives. Third, the bill violates the exclusive Federal tribal relationship in the Constitution by elevating state and county governments above federally recognized tribes. Even worse, the bill equates tribes as public stakeholders.

Finally, the bill impacts reservation lands by allowing state exchanges within our reservation boundaries. I have only scratched the surface. Under most circumstances, we would be eager to work to resolve the problems with the bill. But in this case, we cannot work in support of this bill that would legislatively approve the President's unlawful actions attempting to dismantle decades of collaborative work to establish the Bears Ears National Monument.

Thank you for your opportunity.

[The prepared statement of Mr. Chapoose follows:]

PREPARED STATEMENT OF SHAUN CHAPOOSE, BEARS EARS INTER-TRIBAL COALITION

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 Jaa 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 Dine Bikeyah 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 Jáa 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 Jaa 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 Jaa 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 1800s 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 1800s, 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.

ATTACHMENTS

Exhibit 1



Exhibit 2



Exhibit 3

Mr. MCCLINTOCK. Thank you for your testimony.

Our next witness is Mr. Matthew Anderson. He is the Director of the Coalition for Self-Government in the West, of the Sutherland Institute from Salt Lake City, Utah. Welcome to the Committee.

**STATEMENT OF MATTHEW ANDERSON, DIRECTOR, COALITION
FOR SELF-GOVERNMENT IN THE WEST, SUTHERLAND
INSTITUTE, SALT LAKE CITY, UTAH**

Mr. ANDERSON. Good morning, Chairmen Bishop and McClintock, and Ranking Members Grijalva and Lowenthal, and members of the Subcommittee on Federal Lands. Thank you for the invitation to speak.

San Juan County is a land of towering mesas, red rock canyons, and unparalleled beauty. More impressive than this landscape, however, are the people who call this place home. For locals, public lands are about much more than outdoor recreation. Their history, culture, and future depend on access to public lands and the life-sustaining resources they provide.

Simply put, public lands are their whole world. For nearly 2 years, I have spent countless hours getting to know the people of San Juan County, learning about their connection to the land, and coming to understand why they overwhelmingly opposed the Bears Ears National Monument.

Today, I would like to share with you the stories of three San Juan County residents and how provisions of H.R. 4532 respects their history, promotes their culture, and preserves their way of life.

First, I would like to tell you about Grandma Betty Jones. Grandma Betty is a Utah Navajo and serves as a leader and medicine woman in her community. I first got to know Grandma Betty at a rally in Bluff, Utah. There she told me stories of gathering traditional herbs and medicines along Elk Ridge, herding sheep on the reservation, and explained the spiritual nature of Bears Ears.

Grandma Betty also expressed her fear that a national monument designation would restrict local tribes' access to the land. Much of her concern centered on the reality that a designation could limit firewood cutting and the heat it provides Navajo homes during the long winter months.

After all, she and local Native Americans have seen firsthand that national monuments restrict this type of activity. Just a stone's throw away from the Bears Ears National Monument is the Natural Bridges National Monument. The words "No wood cutting" greet visitors in big, bold letters.

H.R. 4532 ensures that Grandma Betty, her family, and other Utah Native Americans will have a prominent seat at the table in determining how Bears Ears and the surrounding area will be managed. This first-of-its-kind legislation will keep Utahns' homes warm and protect against the whims of centralized government.

Debbie Christiansen serves as president of the San Juan County School Board. I spent an afternoon in her living room getting to know her and listening to the educational struggles that her county faces. You see, it costs nearly three times as much to educate one student in San Juan County as it does in other parts of the state due to its small size and large land mass.

When you combine this with the fact that less than 8 percent of the county can be taxed to support education and the rampant poverty in the region, it is no wonder that Debbie opposes decisions that will put further strain on the limited educational resources her county has. She viewed the Bears Ears National Monument as an insurmountable hurdle that locked up state trust lands and the funds they provide the region's schoolchildren.

The land exchange in H.R. 4532 permits the State of Utah School and Institutional Trust Lands Administration to swap parcels in the Shash Jaa and Indian Creek National Monuments for mineral rich lands both within and outside of the county. While clearly not the answer to all of San Juan County's educational struggles, this bill will open up funding to educate the county schoolchildren.

Zeb Dalton is a third-generation cattle rancher and makes a living grazing his livestock in the shadow of the Bears Ears Buttes. In the spring of 2016, I met him and his teenage son at their corral to learn about ranching in southeastern Utah and listen to his concerns about the then-proposed Bears Ears National Monument.

From horseback, Zeb expressed his worry that a designation would bring with it steeper regulations and decreased numbers of grazing cattle. He cited the experience of his neighbors in Kane and Garfield Counties where, despite President Clinton's promise that grazing would remain at historical levels in the Grand Staircase-Escalante National Monument, the number of actual use AUMs has declined by almost a third in less than 20 years.

For those ranchers left in the area, they face an uphill battle. They struggle to extend or move water lines within their allotments, fence riparian areas, maintain roads, or take other necessary measures to ensure the health and safety of their livestock.

This is slowly pushing cattle off the range and ranchers off the land their families have worked for generations. Zeb fears his business, cultural heritage, and family's future will be next. H.R. 4532

helps safeguard Zeb's and other San Juan County ranchers' way of life, allowing them to use the land as they have for generations.

While Grandma Betty, Debbie, and Zeb all differ in how they use public lands, they all stand in solidarity and they are called to preserve, protect, and responsibly use the land. After all, who knows this land and loves it more than those who call it home.

Without congressional action and the sensibility of H.R. 4532, Bears Ears, Shash Jáa, and Indian Creek will be relegated to nothing more than political footballs being punted back and forth with each change of presidential administration. Nobody wins in this scenario, not the archeological resources, not the environment, and certainly not the people of San Juan County. Thank you.

[The prepared statement of Mr. Anderson follows:]

PREPARED STATEMENT OF MATTHEW ANDERSON, DIRECTOR OF THE COALITION FOR
SELF-GOVERNMENT IN THE WEST, A PROJECT OF SUTHERLAND INSTITUTE

Good morning Chairman McClintock, Ranking Member Hanabusa, and members of the Subcommittee on Federal Lands, and thank you for the invitation to speak.

San Juan County is a land of towering mesas, red rock canyons and unparalleled beauty. More impressive than this landscape, however, are the people who call this place home. For locals, public lands are about much more than rock climbing, camping, and outdoor recreation. Their history, culture, and future depend on access to public lands and the life-sustaining resources they provide. Simply put, public lands are their whole world.

For nearly 2 years, I have spent countless hours getting to know the people of San Juan County, learning about their connection to the land and coming to understand why they overwhelmingly opposed the Bears Ears National Monument. While President Trump's decision to reduce the monument was a bold first step, locals recognize that congressional action alone is the only path that can secure their future.

Today, I would like to share with you the stories of three San Juan County residents and how the provisions of H.R. 4532 respect their history, promotes their culture and preserves their way of life.

First, I would like to tell you about Grandma Betty Jones. Grandma Betty is a Utah Navajo and serves as a leader and medicine woman in her community. I first got to know Grandma Betty at an anti-monument rally in Bluff, Utah. There she told me stories of gathering traditional herbs and medicines along Elk Ridge and herding sheep on the reservation, and she explained the spiritual nature of Bears Ears. Grandma Betty also expressed her fear that a national monument designation would restrict local tribes' access to the land. Much of her concern centered on the reality that a designation could limit woodcutting and the heat it provides Navajo homes during the long winter months. After all, she and other local Native Americans have seen firsthand that national monuments restrict this type of activity. Just a stone's throw away from Bears Ears is the Natural Bridges National Monument. The words "No Woodcutting" greet visitors in big bold letters. H.R. 4532 ensures that Grandma Betty, her family and other Utah Native Americans will have a prominent seat at the table in determining how Bears Ears and the surrounding area will be managed. This first-of-its-kind legislation will keep Utahns' homes warm and protect against the whims of centralized government.

Debbie Christiansen serves as president of the San Juan County School Board. I spent an afternoon in her living room getting to know her—listening to stories of raising her family in a small town, discussing her love of the students she serves, and learning of her hopes for the future of San Juan County. She shared with me the educational struggles her county faces. You see, it costs nearly three times as much to educate one student in San Juan County as it does in other parts of the state due to its small population and large land mass. When you combine this with the fact that less than 8 percent of the county can be taxed to support education and the rampant poverty in the region, it is no wonder that Debbie opposes decisions that put further strain on the limited educational resources her county has. She viewed the Bears Ears National Monument as an insurmountable hurdle that locked up state trust lands and the funds they provide the region's schoolchildren. Today's bill makes Debbie's job a little easier by opening up funds to educate the next generation. The land exchange in H.R. 4532 permits the State of Utah's School and Institutional Trust Lands Administration to swap parcels in the Shash Jáa and Indian Creek National Monuments for mineral-rich lands both within and outside

of the county. While clearly not the answer to all of San Juan County's educational struggles, this bill can have a profound and lasting impact on the county's school-children.

Zeb Dalton is a third-generation cattle rancher and makes a living grazing livestock in the shadow of the Bears Ears Buttes. In the spring of 2016 I met him and his teenage son at their corral to learn about ranching in southeastern Utah and his concerns over the then-proposed Bears Ears National Monument. From horseback, Zeb expressed his worry that a designation would bring with it steeper regulations and decreased numbers of grazing cattle. He cited the experiences of his neighbors in Kane and Garfield counties, where—despite President Clinton's promise that grazing would remain at historical levels in the Grand Staircase-Escalante National Monument—the number of actual use AUMs has declined by almost a third in less than 20 years. Those ranchers left in the area face an uphill battle. They struggle to extend or move water lines within their allotments, fence riparian areas, maintain roads, or take other necessary measures to ensure the health and safety of their livestock. This is slowly pushing cattle off the range and ranchers off the land their families have worked for generations. Zeb fears his business, cultural heritage, and family's future will be next. H.R. 4532 helps safeguard Zeb's and other San Juan County ranchers' way of life—allowing them to use the land as they have for generations.

While Grandma Betty, Debbie, and Zeb all differ in how they use public lands, they all stand in solidarity in their call to preserve, protect, and responsibly use the land. After all, who knows and loves this area more than those who call it home? Without congressional action, Bears Ears, Shash Jaa, and Indian Creek will be relegated to nothing more than political footballs being punted back and forth with each change of presidential administration. Nobody wins in that scenario—not the archaeological resources, not the environment, and certainly not the people of San Juan County.

Mr. McCLINTOCK. Great. Thank you for your testimony.

Our final witness is Ms. Suzette Morris. She is with the White Mesa Ute community. She is a member of the Posey Band Ute Tribe. She comes to us from Fort Blanding, Utah. Welcome to the Committee.

**STATEMENT OF SUZETTE MORRIS, WHITE MESA UTE
COMMUNITY, MEMBER OF POSEY BAND UTE TRIBE, SAN
JUAN COUNTY, UTAH**

Ms. MORRIS. Thank you, Chairman McClintock, Congressman Lowenthal, and members of the Subcommittee. Thank you for inviting me to testify in support of H.R. 4532.

My name is Suzette Morris, and I am a member of the Ute Mountain Tribe from White Mesa, Utah. I am also the vice president of the Stewards of San Juan County. Stewards of San Juan County is a diverse working group made up of stakeholders, advocates, and interested citizens who are working together to determine how we can best maintain and enhance our land in San Juan County.

I received a call Sunday evening asking if I would come testify. I left my six daughters early the next morning, drove 2½ hours to the airport, took a plane to Dallas and another plane here to Washington, DC, a place I have never been in my life, because this is so important to me and my family.

I grew up in White Mesa. My family is from the area. From a young girl, I was taught all about these lands. I was taught where to go and also where not to go. In our communities, public lands are our most valuable resource. We use the land for hunting, wood

cutting, gathering sage and medicinal herbs, and for sacred ceremonies.

There is no one who cares for the land more than we do, the local residents and Native people of San Juan County. It is the people who live closest to the land that understand the land best and should be the voice in how the lands are managed.

H.R. 4532 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. Our voices have been silenced by special interest groups funded by Hollywood actors, San Francisco boardrooms, and by tribes who do not live anywhere near Bears Ears. Even the leaders of my own tribe in Colorado don't know where Bears Ears is.

They decided to support the Obama monument in secret. They did not talk to the White Mesa Utes to support it, because the majority of us don't. By creating the first-ever tribal management council, you are empowering local Native American people with real authority to manage the land of their ancestors. The Obama creation of the Bears Ears National Monument never mentioned tribal management. It only created an advisory committee that had no real power over the land.

In closing, I would like to acknowledge that Rebecca Benally, the San Juan County Commissioner and a member of the Navajo Tribe, was initially scheduled to testify today. Sadly, she was unable to make it because of sickness and a hospital visit. I would like to submit her testimony for the record and read it in part:

"By supporting H.R. 4532, you are listening to a group that has been silenced for too long. We all come from different backgrounds, but we want the same results. We want land that is well-managed and accessible to all people. We support the language of H.R. 4532."

Unfortunately, the Obama monument was done to us, not with us. A national monument should be an honor to an area, not something forced by a president thousands of miles away. The Obama monument ignored the voices of locals. That is why I am here.

It is an honor to be here today. Thank you for listening, and I look forward to any questions.

[The prepared statement of Ms. Morris follows:]

PREPARED STATEMENT OF SUZETTE MORRIS, UTE MOUNTAIN UTE TRIBE,
WHITE MESA, UTAH

Thank you, Chairman McClintock, Congressman Lowenthal, and members of the Subcommittee for inviting me to testify in support of H.R. 4532. My name is Suzette Morris and I am a member of the Ute Mountain Ute Tribe from White Mesa, Utah. I am also the Vice President of the Stewards of San Juan County. Stewards of San Juan County is a diverse working group made up of stakeholders, advocates, and interested citizens who are working together to determine how we can best maintain and enhance land in San Juan County.

I got a call Sunday evening asking if I would come testify. I left my six daughters early the next morning, drove 2½ hours to the airport, took a plane to Dallas and then another plane here to Washington, DC, a place I have never been in my life, because this is so important to me and my family.

I grew up in White Mesa. My family is from this area. From a young age I was taught all about these lands. I was taught where to go, and also where not to go. In our community, public lands are our most valuable resource. We use the land for hunting, wood cutting, gathering sage and medicinal herbs, and for sacred ceremonies. There is no one who cares for the land more than we do, the local

residents and Native people of San Juan County. It is the people who live closest to the land that understand the land best and should have a voice in how the lands are managed.

H.R. 4532 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. Our voices have been silenced by special interest groups funded by Hollywood actors, San Francisco boardrooms and by tribes who do not live anywhere near Bears Ears. Even the leaders of my own tribe in Colorado probably don't even know where Bears Ears is. They decided to support the Obama monument in secret. They didn't ask the White Mesa Utes to support it, because the majority of us don't.

By creating the first ever Tribal Management Council you are empowering local Native American people with real authority to manage the land of their ancestors. The Obama creation of the Bears Ears National Monument never mentioned tribal management, it only created an advisory committee that had no real power over the land.

In closing, I would like to acknowledge that Rebecca Benally, the San Juan County Commissioner and a member of the Navajo Tribe was initially scheduled to testify today. Sadly she was unable to make it because of a sickness and a hospital visit. I would like to submit her testimony for the record and read it in part:

"By supporting H.R. 4532, you are listening to a group that has been silenced for too long. We all come from different backgrounds, but we want the same results. We want land that is well-managed and accessible to all people. We support the language of H.R. 4532."

Unfortunately the Obama monument was done to us, not with us. A national monument should be an honor to an area, not something forced upon us by a president thousands of miles away. The Obama monument ignored the voices of locals. That is why I am here.

It is an honor to be here today. Thank you for listening and I look forward to your questions.

Mr. McCLINTOCK. Thank you very much.

I, again, want to thank the panel for their testimony and coming all the way here today to provide that testimony.

Questioning in this Subcommittee is done by seniority, but that is often modified by unanimous consent at the request of the Majority or Minority. We will make such a deviation right now by recognizing the author of the measure, Mr. Curtis, for 5 minutes.

Mr. CURTIS. Thank you very much. And thanks again to all of our witnesses.

Governor Herbert, thank you for being here today. I was feeling like you had made quite a sacrifice to be here until I heard Suzette talk about her trip. Thank you, all of you, for being here.

Governor, may I ask you for just a minute to put on your county commissioner hat—many people may not realize that you were county commissioner before you were governor—to talk about the principle of local control and why that is so important to us in Utah.

Governor HERBERT. Well, again, I think most all of us appreciate that government closest to the people tends to be more reflective and more representative of the people's needs and wishes and probably has a better understanding of what is happening in their own backyard.

Certainly, as a county commissioner, in my responsibilities there, I am kind of a bottom-up type of a guy as opposed to a top down. As a county commissioner, I was concerned about those above me, of the state mandating or dictating something that really the people of my jurisdiction do not want.

I think we all understand the importance of local control and local input, certainly as we have responsibilities. And in this particular case, this ought to be a joint effort. It is not one versus the other. It is really a collaboration we ought to be looking for to get the right outcome. It will be optimal for the benefit of the Americans that we represent and for the people of Utah and for particularly the people there in the San Juan County area.

Mr. CURTIS. Thank you.

You alluded to this, but let me ask you to expand on it. This issue that we have in Utah with Federal lands and the way their schools are funded, could you elaborate on that a little bit and talk about the burden on the state with the Federal lands?

Governor HERBERT. Well, in the public lands state—and, again, I know this is foreign to some of you because we have less than 1 in 4 acres of Utah that is privately owned, so we are a public lands state. We will always be a public lands state. But that seems to be the extent of where the rub comes all the time.

And we have these townships, these sessions, rather, that have been set aside when Utah became a state—we call them school trust lands—designed to help fund education. These are trapped inside of public lands and sometimes hard to develop.

But those areas are being developed by our SITLA people. And the income that comes off that is put back into the public education system to help fund our needed funding for our schools.

We, in Utah, are the lowest funded people in the Nation. We get a pretty good result for the amount of money, but we could use more resources, and our school trust lands are really an important asset to help us fund our schools properly.

Mr. CURTIS. Thank you.

Ms. MORRIS, thanks again for coming here today.

The bill includes a number of additional resources into the area. Could you comment on how those are perceived, and are they welcomed by the Native Americans in the area?

Ms. MORRIS. From my point of view, I think the land is protected already and the resources that we have are there. They are available, so I don't think a monument needs to be there to protect the land.

The protection was already there from the beginning. There are 14 laws that protect the land in that area, and I don't think that making a monument is going to protect it anymore than—

Mr. CURTIS. Thank you.

You live very close to the monument, 30 minutes. Is that approximately right?

Ms. MORRIS. Yes, about 30, 45, depending on where you are going in the area, but I live close.

Mr. CURTIS. The two presidential declarations have brought a lot of attention to this. Can you tell us just briefly what you are seeing locally as far as additional people in the area?

Ms. MORRIS. With the monument designation?

Mr. CURTIS. Yes.

Ms. MORRIS. We go out in the area, like they mentioned. I am a descendent of the Posey Band, and we have allotments out there in Alan Canyon that is just a little ways from the Bears Ears Monument.

We have seen a lot of suspicious activity where people are out there, and when we come upon them they are taking off. They are running through the stream so that we can't see their footprints. It kind of opened a lot of doors to what the other side is saying about the county looting.

And I think it is the outsiders. It opened a lot of doors to people, they are fascinated with the area, so they are going in and they are curious.

Mr. CURTIS. Thank you very much.

I yield my time, Mr. Chairman.

Mr. MCCLINTOCK. Thank you.

The Chair is pleased to recognize the Ranking Member, Mr. Lowenthal, for 5 minutes.

Mr. LOWENTHAL. Thank you, Mr. Chair.

I want to clarify to make sure I heard correctly some of the comments that were made by members of the panel.

My first question is to Ms. Morris. You talked about the importance, under H.R. 4532, of tribal management and that this would allow for tribal management. Are you saying that the tribal leadership coming from the Inter-Tribal Coalition will choose who those members are, or will it be another example of what took place in the 1800s, that the U.S. Government will choose what Indians should be on that management? Who is going to choose the management?

Ms. MORRIS. From my knowledge, it is going to be the people. They are the ones that are going to choose those individuals that sit on that committee.

Mr. LOWENTHAL. Thank you. But I think you should read the bill. It is not the people who will make that choice. Maybe you can clarify that.

Mr. CHAPOOSE, who will choose the tribal management?

Mr. CHAPOOSE. Actually, in the bill itself it is up to the President to select the representation of the sovereign tribal governments. And it also is up to some of the local people to make the same decision.

And I need to stress this—we need to go back to the simple fact. We are federally recognized tribal governments. Under law, we have the voice and the authority to represent our perspective nations. But in this bill, it diminishes that.

I think there was a part, I think it was Section 3, as a matter of fact, that talks about there are two particular areas, the Shash Jáa and the Indian Creek. In one, more or less, the President once again will pick who represents us, the sovereign nations. And I think we are allowed a few seats.

In the other one, it even goes beyond that and diminishes that and gives us one. So, I think the bill is laden with language that basically undermines the government-to-government relationship that does exist with us, the federally recognized tribes, and it also undermines our self-determination.

Mr. LOWENTHAL. Thank you.

I also want to ask you, Mr. Chapoose, to clarify the statement, when Mr. Anderson talked, in a very eloquent way, about Grandma Betty and being concerned about President Obama's proclamation of Bears Ears as a national monument that traditional Native

cultural uses would not be recognized such as collection of medicines, berries, firewood, and other vegetation. Is that true that that was limited by President Obama?

Mr. CHAPOOSE. No. Actually, part of what we have put forth as a coalition enhanced not just the cultural aspect as far as gathering but the learning capabilities of the Native American tribes to develop and to better educate.

It is interesting that in the comments we talk about third generations. My tribe, even though we are not there right now, and everybody acts as if just the occupants at this time have a claim. We need to be very cautious about that.

Part of the Antiquities Act talks about historical and scientific evidence. It is evident that there were numerous tribes before my tribe, before the Hopi, the Pueblo, and the Zuni who have been in the region. And it is a known fact that their remnants, their artifacts, their petroglyphs are there.

So, to basically make it sound like we are going to do everything that the first bill did, there again, it is them interpreting our intentions as tribal leaders. People need to remember, we were the sovereign tribes representing our interest in the original proclamation.

It came from us directly. It didn't come from my neighbor. It didn't come from somebody who thinks they know what I want. It came from us, the tribal leaders.

Mr. LOWENTHAL. Thank you.

I want to follow up on this, Mr. Chapoose, that the monument review carried out by Secretary Zinke that was ultimately used to justify President Trump's elimination of Bears Ears National Monument, claimed that a lot of the land included in the original monument is not of scientific, historic, or cultural interest.

That is why we are being asked today to support a bill that only has 15 percent of the land from the original designation. Can you speak to the cultural significance of the 85 percent that we have left out?

Mr. CHAPOOSE. In the photos, which were flashed earlier, they were actually outside of the new monument. They are petroglyphs. They are greeneries.

Mr. LOWENTHAL. It was outside?

Mr. CHAPOOSE. Yes. They are actual reflections of what will not be protected. I am not a rocket scientist, but that pretty well shows me that it is under the criteria of the Antiquities Act antiquities. There was a comprehensive study done when the monument was declared the first time by the Utah Diné Bikéyah plus a bunch of other groups, and that information was brought forward to the President at the time and to people of Congress.

So, the valuation that was done most recently with Secretary Zinke was, I show up, I fly down, let's have a PR moment, go look at some of the more popular locations and call it a day. Yet, the Utah Diné Bikéyah and the tribal leaders requested for him to actually have grounds-on opportunities with us, the tribal leaders.

Mr. LOWENTHAL. Thank you. I yield back, Mr. Chair.

Mr. MCCLINTOCK. Thank you. I will start my 5 minutes and begin with Governor Herbert.

Governor Herbert, I read the provisions of the Antiquities Act that the Obama administration used to impose these restrictions on 1.3 million acres of the land in Utah. It is supposed to be confined to the smallest area compatible with proper care and management of the objects to be protected. Do you think that that Executive Order comported with the requirements of the law?

Governor HERBERT. No, I don't. In fact, the magnitude of the monument is stunning. As you have mentioned already, it is bigger than the state of Delaware. If you take our two monuments that have been created, the Grand Staircase-Escalante along with the Bears Ears, it is the same size.

And if you look on a map of Utah, of all of Utah County, all of Salt Lake County, all of Weber County, and all of Davis County, where over 80 percent of the people of Utah live, the magnitude is stunning it is so large.

Mr. MCCLINTOCK. I wonder if we imposed that kind of restriction on Los Angeles County what we would be hearing from the acting Ranking Member?

But let me go on. Did the Obama Executive Order have the support of the government of Utah?

Governor HERBERT. It did not.

Mr. MCCLINTOCK. Did it have the support of the local government?

Governor HERBERT. No.

Mr. MCCLINTOCK. The Ranking Member suggested that the state was fully consulted in the designation of this region, and it is a region as a national monument. Is that true?

Governor HERBERT. There is discussion and dialogue that went on. I have worked with Secretary Sally Jewell, in fact, and had some discussions on this. She did come and visit Utah, which I appreciated. We had no idea as far as what the size and what the result was going to be, and certainly they did not tell us in advance of what that was going to be.

And let me make one point that I think is salient. What they did say is this should be done legislatively. The Obama administration agrees with what we agree with. It should be done legislatively. Rather than just a stroke of a pen and somebody's arbitrary decision making, it should be done like we are trying to do here today.

Mr. MCCLINTOCK. Which is what the Constitution requires, and as you point out, why we are here today.

Were any concerns expressed to the Obama administration prior to the announcement?

Governor HERBERT. We had a lot of discussion as far as let's see if we couldn't get the PLI through. Congressman Bishop made a significant effort, 18 million acres they are trying to resolve. We have had the public land dispute and sagebrush rebellions in the West for the last 100 years, under Democrat as well as Republican governors, so this is an ongoing issue.

It wasn't able to get marked up. It wasn't able to come out for a vote. So, we ended up having a dictator approach of using the Antiquities Act, which I—

Mr. MCCLINTOCK. But, again, we have been told that you were fully consulted and basically brought in as a partner as this designation was being considered.

Governor HERBERT. No. I think Suzette mentioned that the feeling we have is it was done to us, not with us.

Mr. MCCLINTOCK. I see.

Mr. Anderson, what restrictions are imposed on the public use of these lands because of the monument designation?

Mr. ANDERSON. Well, Utah has a long and storied history of national monuments. And I would like to respond to a comment about wood cutting being guaranteed.

In President Clinton's designation of the Grand Staircase-Escalante, as I mentioned, there was a promise that grazing would remain at historical levels. So, it was in the proclamation just as herb gathering and wood cutting were in Obama's declaration.

However, grazing has declined, and we have seen a history of broken promises when it comes to national monuments. Even if it is in a presidential proclamation, it does not guarantee access for the people of Utah. Congressional action is what is needed to secure the future of the people of Utah.

Mr. MCCLINTOCK. Thank you.

Ms. Morris, what harm comes to the local community due to the designation of 1.3 million acres as an archeological site?

Ms. MORRIS. There is no harm there. I know there are a lot of archeological sites, but like the other side says, there is a lot of looting. They don't live in the area. They are not there every day. They don't know everything.

Mr. MCCLINTOCK. Well, you do live in the area.

Ms. MORRIS. Yes, I live in the area.

Mr. MCCLINTOCK. It is quite clear that the local people are opposed to the expansive designation and supportive of this measure. What I am trying to fathom is why? What harm did the President's Executive Order do that this bill corrects?

Ms. MORRIS. Access. The access to the land. We would be denied access to the land, and, like I stated before, we wouldn't be able to cut the wood. We wouldn't be able to gather the medicinal herbs, and a lot of our activity. We live there, so we go out there every weekend.

Mr. MCCLINTOCK. Well, the proponents say you can. But as Mr. Anderson has pointed out, those are promises that have been broken time and again, and we have certainly heard that song before.

Ms. MORRIS. Yes.

Mr. MCCLINTOCK. Thank you very much for your testimony. My time has expired, and we will next go to Mr. Grijalva.

Mr. GRIJALVA. Thank you very much, Mr. Chairman.

Let me go back to a point. Ms. Morris, the implication in your testimony is that Native American people do not support Bears Ears National Monument. Am I correct that the sovereign tribal governments of the Ute Mountain Ute, along with the other four tribes of the Bears Ears Commission have all passed official resolutions of support for Bears Ears National Monument, Number one?

And further, they have all filed legal suits challenging the elimination of 85 percent of the Bears Ears by President Trump last month. Is that correct?

Ms. MORRIS. Yes, but with the Ute Mountain Ute Tribe, there was no justification on the people.

Mr. GRIJALVA. OK. But the Stewards of San Juan County, when were they funded, and what is your group's tax status?

Ms. MORRIS. It is the Stewards of San Juan County.

Mr. GRIJALVA. Yes, but when were they founded? When did they start?

Ms. MORRIS. Just last year.

Mr. GRIJALVA. And your tax status is what?

Ms. MORRIS. It is a non-profit.

Mr. GRIJALVA. OK. The group's registered agent, Mr. Phil Lyman, who is, I think, also a county commissioner in San Juan, is the registered agent in the business database in Utah. And he is on record saying that Native Americans, "lost the war and therefore have no right to comment on public land management decisions." Do you agree with that statement?

Ms. MORRIS. I think what he is talking about are the outsiders, the tribes that live outside of the area. And, yes, they don't have—

Mr. GRIJALVA. Are you an elected member, a representative of your people in any capacity?

Ms. MORRIS. Just a community member.

Mr. GRIJALVA. And you are authorized to speak on behalf of the Mountain Ute?

Ms. MORRIS. I am speaking as a Ute Mountain Ute tribal member.

Mr. GRIJALVA. But not for the government and their representatives?

Ms. MORRIS. No. I didn't say I was talking for the Ute Mountain Tribe.

Mr. GRIJALVA. Mr. Anderson, director of, I think, the Coalition for Self-Government in the West, part of the Sutherland Institute, can you tell me when Sutherland started working with the Stewards of San Juan and how money was raised for the ads that were run by Stewards against the monument?

Mr. ANDERSON. Absolutely. I first met a number of people who started the Stewards of San Juan County in the summer of 2016. All the money that was run for the ads by Stewards of San Juan County was raised from local funds, and it was paid for by locals. What happened with the Sutherland Institute, all we did was help in the production of the video, but all funds that were used to pay for the commercial were paid for by local people.

Mr. GRIJALVA. And the Descendants of K'aayelii, does the Sutherland Institute provide funding to that group as well?

Mr. ANDERSON. No, we do not provide any funding, and we do not provide any funding to the Stewards of San Juan County.

Mr. GRIJALVA. But you did send out a press release announcing their website in 2016?

Mr. ANDERSON. Which was our website that we created. They have their own separate website which they funded and created.

Mr. GRIJALVA. And this descendant group is pursuing recognition of its own tribe separate from the Navajo Nation. Does Sutherland support their effort?

Mr. ANDERSON. We believe that locals should have a voice in all decisions. We haven't engaged in that issue.

Mr. GRIJALVA. Where does the Sutherland Institute get the bulk of its funding? How much money did you get from the DonorsTrust and Donors Capital Fund to provide what was provided to Sutherland in 2016 and 2017?

Mr. ANDERSON. The vast majority of our funding comes from our founding family in Utah. Most of our money comes from the state of Utah, and we are in compliance with all 501(c)(3) funding.

Mr. GRIJALVA. I know. But DonorsTrust gave \$225,000 to Sutherland in 2016. The most recent ones are still not available. That is a Koch Brothers funding network, the dark ATM as it has been categorized. So, do you feel that that legitimizes your independence as the institute and working with these organizations because the Koch Brothers are now paying essentially organizations to interfere in the internal politics of a sovereign nation, the Navajo Nation in this case.

Mr. ANDERSON. Sutherland Institute became engaged in this issue because we saw local voices being drowned out by environmental and corporate interests. Their voices were not being heard. That is why we got involved. I spent time getting to know these people. I spent time in their homes and in their schools.

Mr. GRIJALVA. Thank you very much. My point is that this is not a simple case of legislation. There are a lot of motivations, a lot of things behind it, a lot of interest behind it.

Mr. MCCLINTOCK. The gentleman's time has expired.

Mr. Thompson.

Mr. THOMPSON. Thank you, Chairman. Thank you to all the members of the panel for being here. I certainly don't want to criticize you for exercising initiative as citizens, for exercising that part of the Constitution of bringing your petitions to Congress. I appreciate that you are doing that. And, Ms. Morris, in particular, the last minute sacrifice, your stepping in, is much appreciated. Ms. Morris, we have heard testimony here today about tribes not having enough input into this process. I am curious, whose idea was it to seek a national monument in San Juan County? Was it a Ute Mountain Ute or a member of one of the local tribes or perhaps another San Juan County resident?

Ms. MORRIS. I think it was the environmentalists. None of the Tribal Council, Ute Mountain Ute, Navajo Nation, they never made a statement on why they wanted the monument. I think the only ones that have been speaking about the importance of the monument are special interest groups. And my opinion is, how would special interest groups know how to protect the land when we have Native Americans that are taught their traditions, that are taught their culture and to be respectful, like they say they want to protect this archeological site, but we are taught not to go into that area. Somewhere it is all about greed; it is all about money, getting money and using Native American culture, using Native American history to promote this monument. And it was not our own council. For me, I speak for Ute Mountain in saying we never had a community meeting to say why they wanted the monument.

Mr. THOMPSON. And you have actually personally addressed my next question for you. Leading up to the designation by the Obama administration, were local Native tribes consulted?

Ms. MORRIS. No.

Mr. THOMPSON. How about the tribal co-management that was promised by the Obama administration? Was true co-management ever achieved?

Ms. MORRIS. No. I think a true co-management would include the locals. And this management that they talk about is all outsiders, outsiders that don't know the land. But I think with H.R. 4532, we are going to have that voice. We are going to be able to voice what we want, how we want to protect the land.

Mr. THOMPSON. Thank you.

Governor, I particularly enjoy Thomas Jefferson's quote outlining the importance of government that is closest to the people. And having a national forest in my congressional district, I see when outsiders have their input considered more heavily, more important than the people that live within that area. So, the use of management councils would certainly increase the presence and influence of local authorities. Can you describe how these councils will be built and what their role will entail? And how will this help the local communities?

Governor HERBERT. I think all of us recognize that those who live right next to it have a better understanding, probably a better appreciation for what is the best practices for the land in question. Again, it is not just a matter of outsiders; it is really a matter of a collaborative effort. And these councils are designed to make sure that we have representation from the Federal Government, from the local community and the counties, and the local tribes. And rather than just have a suggestion box out there, if we really care about protecting the antiquities and the archeological artifacts, if we really care about giving the Native Americans co-management responsibility, it has to be done legislatively. These councils are a step in the right direction. Again, you can decide and debate, which is the purpose of having a legislative approach here, to get to the right outcome. But, clearly, having local input ought to be considered and listened to, and really have a better input rather than somebody from so far outside that just comes in and feels like we are doing it to the people rather than with the people.

Mr. THOMPSON. That is certainly a theme I have heard repeated a number of times and makes a lot of sense to me, that we need to do with and not for.

Chairman, I yield back the balance of my time.

Mr. MCCLINTOCK. Mr. Tipton.

Mr. TIPTON. Thank you, Mr. Chairman. I thank the panel for taking the time to be able to be here today. I found it interesting, Mr. Anderson, when you were talking about, and we have had several comments in regards to education. The per-pupil costs in San Juan County are higher than they are elsewhere in Utah. And taking some of those trust lands out is actually impacting the ability to be able to provide that educational support. Can you maybe expound on that and perhaps how this legislation might be able to help make sure that we do have funding for the children and for schools?

Mr. ANDERSON. I would be happy to. In the state of Utah, about 67 percent of our state is owned and managed by the Federal Government. As such, our state cannot tax 67 percent of the land within our state. That puts our children at a real educational

disadvantage. Sure, we have programs like receipt sharing and PILT payments, but especially with PILT payments, our counties don't know how much they are going to receive every year in funding. The formula changes consistently. With this bill, we are going to see our state trust lands be able to transfer out of areas that already don't really have any mineral resources. There is no oil or gas in the area. To quote the Grand Canyon Trust: drilling has yielded little more than dry holes in the Bears Ears region for so long. And what it is going to do is allow us to find mineral-rich areas in other parts of the state, hopefully within the county to keep the resources there and the jobs there. I spoke with the State Trust Land Administration, and they hope to keep the jobs there. But there are other places within our state that hold vast amounts of mineral resources that can go directly to funding the students of the state of Utah and specifically the people of San Juan County.

Mr. TIPTON. Thank you for that.

Governor, thank you. I appreciate the opportunity to be able to visit with you. I think that you are focusing in on something that I believe is really critically important to be able to address the multitude of issues which may come up in the course of any type of designation, and that is being able to have that legislative process to be able to go through. As you have expanded visitation, there may be costs with the new parking lot. If we don't have that discussion in advance, we aren't going to be prepared for it. Can you maybe expound a little more in terms of why we should be looking at the legislative process? I don't know of anyone, Republican or Democrat, who is opposed to making designations. We value those public lands. But why is it important to go through that legislative process?

Governor HERBERT. Well, as you know, you can compare legislation by initiative petition, where you have no ability to modify and improve, or the legislative process that you have, where you can have debates, you can have amendments, you can make decisions and discussion, and improvement occurs over the legislative process. The public lands issue is a complex issue. And most of the states of America don't have the issue in their backyards. It is us in the Near Mountain West and kind of west of the Rockies that have this issue. I appreciate the complexity. We have division in the ranks. We have Native Americans on one side and Native Americans on the other side. The people of Utah are divided. It requires a legislative action, where we can in fact debate these issues, have discussion, and find out what is the optimal place to be to protect the artifacts? The monument is not going to be any silver bullet to protect them. In fact, some people think that the monument will attract people to come and increase looting. If we don't have more law enforcement and education of people that appreciate these wonderful things that we have out there in our public lands, we are going to continue to have looting and lose some of these artifacts as we attract people to come there. If we really believe that these are sacred lands for the Native Americans, we absolutely should give them some co-management capabilities to preserve and protect what they think is sacred. We have Native Americans say, "Well, we want to have a monument for tourism and travel. We want to increase the economic opportunity." Other

Native Americans say, "No, these are sacred lands, we don't want to have people come and trample on our sacred lands."

They are not compatible. That is why the legislative process. And President Obama and Secretary Jewell all agreed this should be done legislatively. You can argue all the history of why we don't have it done legislatively, but we have an opportunity to do it right now. And it is this Committee and others of your body that need to take up the cudgel and say, "Let's see if we can't do this right." And it can be done right by doing it legislatively.

Mr. TIPTON. I appreciate that. And just so that we have some clarity, listening to some of the comments that we have had on the panel, is it against the law right now to go in and destroy petroglyphs on these public lands, with or without designation, it is still against the law, isn't it?

Governor HERBERT. It is. We mentioned earlier the different protections that are there. This is BLM land. They can, in fact, enhance protections at their own volition without any additional help from Congress. These lands are protected, will be protected, and can be enhanced by the BLM alone.

Mr. TIPTON. Thank you. I am out of time, Mr. Chairman. I yield back.

Mr. MCCLINTOCK. Thank you.

General Bergman.

Mr. BERGMAN. Thank you, Mr. Chairman.

And thanks to all of you for your testimony today. As I listen, where I am from in northern Michigan, we really don't like people coming in and telling us how to do our business. We manage our lands, we manage our lifestyles, and while we are always interested in others' opinions, if you don't live in the middle of it and you are not interested in conserving what you have for the long haul—and as our tribes in our district will tell you, we work together—but ultimately, we want the say, and we want it individually. Ms. Morris, can you describe to me, to the panel here, as an individual, the importance of Shash Jáa to you and to the Ute Mountain Utes?

Ms. MORRIS. I speak for White Mesa because I live in the community, but it is important to us to be able to have that access because we have always had the access. It has been there for hundreds of years, all these ruins, the archeological sites. And it was just out of the blue that they wanted to make it a monument. It has been protected. We have had no problems in the past, maybe one or two incidents that occurred. But with the designation of the monument, it has increased people, and it is going to increase more vandalism and more looting. And their respect for the land is not there because we, as San Juan County residents, we respect the land. We know how to take care of the land. We have been taught that. As a Native American, we are taught to have that respect for the land. You give to the land. You don't take from the land, or you don't get rich off the land, and the land will take care of you.

Mr. BERGMAN. And I want to just reiterate what I thought you said earlier, that with the passage of H.R. 4532, tribes will still be allowed to use Shash Jáa for hunting, wood cutting, gathering medicinal herbs, and for sacred ceremonies. Am I correct?

Ms. MORRIS. Yes.

Mr. BERGMAN. OK. Thank you.

Governor Herbert, under this bill do you believe that the public will have just as much access to the land in question? Just as much?

Governor HERBERT. Yes. And, again, there is not a lot of change that is occurring. The national monument was really not necessary, certainly at that magnitude. The BLM already is restricting access to some of the artifacts and some of the ancient ruins that are there on the property. And that is what you want to do is to restrict traffic. If you really care about preservation, the archeologists are telling us it is traffic, it is people going there that is causing the problems. The BLM has always had that ability to restrict, and they in fact do that. We have resource management plans where we spent 7, 8 years working with all the stakeholders as far as what we can do on these public lands.

Mr. BERGMAN. Do you think that there would be limitations put in place by this bill that weren't in place before?

Governor HERBERT. Not that I am aware of.

Mr. BERGMAN. I have kind of noticed a pattern in the testimony here today, and that is we all want and we have a need for certainty and clarity, something that is currently missing in the Bears Ears National Monument designation. Does this bill, H.R. 4532, bring the certainty and clarity that you state? Is that so?

Governor HERBERT. That is true. That is what legislation does. Let me just make one clarification. The limitation that is put on in this bill of Congressman Curtis puts to rest any idea that somehow this is being done to access energy. We have people out there distorting the facts, misrepresenting the truth, saying this is about oil and gas. That is not true. There is really no oil and gas there in the monument itself. But this is being codified now that there is going to be no mining, no oil or gas accessibility inside the original Bears Ears Monument. So, that is a restriction that is enhanced by this bill.

Mr. BERGMAN. Thank you.

Mr. Chairman, I yield back.

Mr. MCCLINTOCK. Mr. Gianforte.

Mr. GIANFORTE. Thank you, Mr. Chairman.

Thank you to the Committee for your testimony today. I want to start with Mr. Anderson, if I could. Many of the proponents of the original Bears Ears National Monument would like us to believe that it was really a grassroots effort that drove that initiative, led by local voices. Can you explain to the Committee why you testified today that that is not true? And, further, can you talk to us about the impact and influence big money environmentalists had in pushing the original designation?

Mr. ANDERSON. I would be happy to. The idea for the Bears Ears National Monument actually began in 2014 with a group of environmentalists who met in San Francisco. This was undercover reporting that was done by the *Deseret News*, which is our local newspaper in Salt Lake City. They said in their meeting minutes that, "In order to get this Bears Ears National Monument through, we are going to have to get tribes on board."

And I have seen that firsthand. I remember going down and seeing when Secretary Sally Jewell visited and seeing eight busloads

worth of people bussed in to try to drown out local voices—they were all wearing blue shirts and during the hearing, they were not required to say where they were from. And locals, like Suzette, were looking around saying, “Who are these people? We have never seen these people before.”

They have really done a good job of drowning out these voices. They have a lot of money, and they have a lot of power, and the people of San Juan County do not. They are the poorest county in the entire state, among the poorest in the country. They don’t have the money to push back against the false narratives put out by corporate interests and environmental groups.

Mr. GIANFORTE. Is it fair to say that the bill we are discussing today is a much better reflection of the local voices?

Mr. ANDERSON. Absolutely. Not just now, but moving forward.

Mr. GIANFORTE. OK. Great.

Ms. Morris, thank you for being here on short notice. I understand the difficulty in leaving a family behind and traveling to a place you have never been. So, thank you.

I want to ask you about tribal management of this national monument. This is going to create a new precedent for us, and I am curious first to talk to you about the impact. We have heard testimony today that in other monument designations, the ability to collect firewood, the ability to collect medicinal herbs has been constrained or restricted. If those things happened in Bears Ears National Monument, what would that mean to your family? Can you talk about the impact on your culture and your people if that access was removed?

Ms. MORRIS. With the access being removed, it would create a lot of animosity because we are used to going up there. We are used to going on the dirt roads. Certain areas have the sage or the cedar and we have to travel. If there was limited access, it would create a lot of not being able to do our traditional way of life, what we value, and our cultural, our ceremonies that we do, we wouldn’t be able to do that. We would have to go out in other areas to pick that.

Mr. GIANFORTE. OK. And under this bill, there would be representation from the local tribe. Can you talk a little bit about what co-management means to you? And if you or someone from your tribe was on that management, what would you be looking to preserve?

Ms. MORRIS. Co-management to me is being able to hear the local voices, being able to hear the local tribes. Our tribes, they all differ. Our cultures, our traditions, they are all different, so if we can come together, work together. From the beginning, we were left out. All we want is to be able to have a seat at the table to express our importance, to express our values and our respect for the land, and not outside groups coming in and telling us how to take care of our land.

Mr. GIANFORTE. OK. Thank you.

Governor, again, thank you for being here. In your testimony, you talked about reform of the Antiquities Act. I want to draw on your experience as a county commissioner. In Montana, if I want to know what is going on, I always talk to a local county commissioner. What impacts have you seen locally from the Antiquities

Act from a county commissioner perspective that have been difficult that caused you to make that comment about reform?

Governor HERBERT. As I mentioned, it is not the use of the Antiquities Act; it is the promise, the abuse of it. And presidents have done it on both sides of the aisle. They do it for political purposes. The most egregious example that I have seen in my history was the Grand Staircase-Escalante. You know, 1.9 million acres that was designated when the president stood in Colorado, lied to our congressional delegation, including our Democrat Representative, Congressman Orton, at the time, and did it, not because he was trying to protect antiquities, but he wanted to make sure that nobody accessed the Kaiparowits Plateau coal. He did it as a favor for his environmental constituency. And even Democrats in Utah were upset and appalled about that action. That is an abuse of the Antiquities Act.

Mr. GIANFORTE. Thank you.

Chairman, I yield back.

Mr. MCCLINTOCK. Thank you.

The Chair next recognizes the Chairman of the Natural Resources Committee, Congressman Rob Bishop, for 5 minutes.

Mr. BISHOP. Thank you. Before I ask my questions, I would like to ask unanimous consent to introduce a couple of articles into the record.

The first one is an article that was written by Alfred Ben, who is from the Aneth Chapter, vice chairman there, about sizing up the national monuments and their opposition to it within the Aneth Chapter.

Mr. MCCLINTOCK. Without objection.

[The information follows:]

Sizing them up:

Utah rep. not Trump or Obama, meets Navajo needs on Bears Ears

The Hill

By Alfred Ben, Opinion Contributor

December 26, 2017

Among land management issues in the American West, Bears Ears National Monument pushed to the forefront of public attention Native Americans's land issues. President Trump's downsizing of Bears Ears and Grand Staircase-Escalante National Monument in Utah forced out many opinions on why Bears Ears should or shouldn't be a monument. One thing we all can agree upon: the land should be preserved.

My ancestors have long-lasting ties to the area. I come from a great Navajo leader, named K'aayelii. As descendants of K'aayelii, we have a strong bond with the Bears Ears buttes. My ancestors lived on those lands when no other tribes were there. We take immense pride knowing our people never surrendered during the wars of the 1800s in which many members of our tribe were held prisoner in Fort Sumner, New Mexico.

When President Obama designated more than 1.3 million acres in San Juan County as Bears Ears National Monument in December 2016, my chapter of the Navajo Nation, Aneth Chapter, closest to Bears Ears, passed resolutions requesting that the president reverse his designation. Why do you think so many Utah Native voices were against the designation?

For one thing, there already are 11 wilderness areas protecting this area; therefore, a monument designation doesn't come with anything more than the paper it was written on. Second, the idea was sold to the public as though it was a "celebrated," tribally-managed monument, with decision-making at the offices of each tribal chairman/president. The buck stops at each tribal leader? Not so.

All one needed to do was to view the Bears Ears National Monument proclamation on the Bureau of Land Management (BLM) website to see what a slap in the face its designation was to Native American tribes. The proclamation gave each tribe named a less-than-advisory role in the Bears Ears Commission. "Tribal co-management," a term adamantly pushed often by special interest groups and environmentalists, was found nowhere in the original Bears Ears proclamation. Monument decisions always were going to remain in the hands of faceless BLM and U.S. Forest Service (USFS) officials.

The committee status of the Bears Ears Commission so far has not included much, if any, input from Native Americans. If it holds meetings they are held in secret, at unknown locations; the only meeting I was ever aware of was held off-site of any reservation, in Bluff, Utah, and controlled by non-elected special interest groups. To this day, none of my constituents can even find a meeting agenda. How are we supposed to have confidence in that process?

President Trump has reduced the size of the original monument boundaries to 201,876 acres and designated two smaller monuments, Shash Jáa National Monument and Indian Creek National Monument. Within the original Bears Ears Monument boundaries lies the reason the Forest Service was a main player in its management: the Manti-La Sal National Forest. These 1.2 million acres of forested land cover six Utah counties, but mostly San Juan County.

The U.S. Department of Agriculture website for the Manti-La Sal forest leaves blank advisory roles and tribal relations. The website makes no mention of the Aneth, Oljato, Red Mesa, and Navajo Mountain chapters. Utah Navajo and Ute tribal members who actually use the Bears Ears lands were extremely displeased with the lack of interest from our own tribal governments.

Am I pleased that the Bears Ears Monument's boundaries were reduced? Somewhat. Am I pleased there are two efficiently sized national monuments where before there was only one? I can live with that. But it's not enough.

What my Navajos would like to see are lasting protections for the area. Obviously, presidential proclamations to designate monuments could be modified back and forth until the end of time. The answer, then, lies with Congress, which can pass laws that withstand the test of time and presidents.

Our newest Rep. John Curtis (R-Utah), elected last month, has Navajo concerns on his mind. We are honored that his first official act as a congressman was to introduce H.R. 4532, the Shash Jáa National Monument and Indian Creek National Monument Act, to create a truly Native American management body with which the public can be involved. As a duly elected official, chosen by the people, I stand with my Utah congressman's legislation.

Mr. BISHOP. I would also like to ask to introduce one that is written by Darren Parry, the vice chairman of the Northwestern Band of Shoshone Nation, up where I happen to live, called the "Great American lie that all tribes are for Bears Ears National Monument."

Mr. MCCLINTOCK. Without objection.

[The information follows:]

"Great American lie that all tribes are for Bears Ears NM"

By Darren Parry

Vice Chairman, Northwestern Band of the Shoshone Nation

For thousands of years, our tribal elders would sit down with our young children and tell them stories about our people. The stories were always the same, never a word out of place. Our children were taught life lessons that would help them transition to adulthood. Things have changed.

No longer do we teach our children the old ways. Social media does that now. No longer does our youth listen to and respect our elders. No longer does our youth learn the sacred art of compromise, where the thoughts and ideas of all groups are valuable and that all ideas should be heard and respected.

Instead, our politicians have taught them that it is only important to win at all costs.

This brings me to Bears Ears National Monument. It saddens my heart to see the all or nothing attitudes from everyone involved. The BENM movement has been in the works for a long time. This was discussed long ago by Conservation groups that wanted to protect the lands that we know and love.

They were hesitant at first to get tribes involved, according to their minutes. After all, working with a variety of tribal sovereign governments can be tricky. When their lobbying efforts in Washington, DC stalled, a strategic decision was made to include the Navajo Nation, but not without concerns.

This was a brilliant move on their part. For President Obama to support a National Monument, the local tribes needed to be involved. Tribal governments with the help of conservation groups came together and started the Inter-tribal Coalition.

Since the tribes have gotten involved, they have been at the forefront of this movement. But this was never their idea.

The conservationists have done a wonderful job of pushing the tribal nations to the front to speak for their cause. The fact that the President of the Navajo Nation had not heard of or could even tell you where Bears Ears was located speaks volumes.

This land in San Juan County is sacred to our native people. There is no question that those sacred Native sites need protection. What most people don't understand is that the Native American cultural sites within the monument were already protected under federal law.

Inviting the world to visit these pristine areas does not protect them any better, but it will exploit them. Increasing popularity does not increase protection.

This land has been used by my native brothers and sisters to gather wood, pick plants that have healing and ceremonial purposes and enrich their lives. This land at times has served as a burial ground and a place to live.

This land has also been used by many local residents of San Juan County, who are good people who work hard every day to make a living. If you go there today, it is a beautiful and peaceful place. It has been taken care of by all of us for the last 100 years, and we will continue to do so.

Back in June of 2016, there was a councilman representing the Northwestern Band of Shoshone who officially signed the Support for Presidential Designation of the Bears Ears National Monument to Protect Cultural, Historical & Natural Resources on Federal Lands in San Juan County, UT under the Utah Tribal Leaders Association.

When the Northwestern Band of the Shoshone Nation signed a resolution supporting our tribal brothers and sisters, we did so because we are family. We will always have unconditional love and support for each other like families do.

However, the councilman did not have the blessing of the tribal Council, nor did he speak on behalf of the Council. It has been increasingly difficult to continue to support Bears Ears NM because all sides, interests, and views are not being represented or heard.

The NW Band of Shoshone does not support the Bears Ears National Monument. I disagree with environmental group's decision to utilize the tribes inside the Inter-tribal Coalition.

This monument was inducted and accomplished without official consultation and significant participation of the NW Band of Shoshone. We believe this takes away the rights and freedoms of many to express their beliefs and views.

This designation is not in the best interests and welfare of not only Shoshone people, but of all Utahans who love the land of their heritage.

There is an old saying among my people that says, "What if I told you that the left wing and the right wing all belong to the same bird."

It is my hope as a tribal leader, as a citizen of the most beautiful state on earth, and as a steward of all things given to us by the Great Spirit, that we can all come together and sit down as a group and make a decision that is in the best interest of everyone.

I am currently working with other tribal leaders to help educate them to the real issues that are involved. This is not a good deal for tribes. They need to understand this. The great American lie is that all tribes are for the Bears Ears National Monument. They are not!

Mr. BISHOP. Let me just say one quote from what he said, "The Bears Ears National Monument movement has been in the works for a long time. This was discussed long ago by conservation groups that wanted to protect the lands that we know and love. They were hesitant at first to get tribes involved, according to their minutes. After all, working with a variety of tribal sovereign governments can be tricky . . . This land in San Juan County is sacred to our Native people. There is no question that those sacred Native sites need protection. What most people don't understand is that the Native American cultural sites within the monument were already protected under Federal law. Inviting the world to visit these pristine areas does not protect them any better, but it will exploit them."

The third is what was recently mentioned by Matt, the article by Amy Joi O'Donoghue from the *Deseret News* called "Big money, environmentalists and the Bears Ears story." I would like that actually admitted into the record.

Mr. MCCLINTOCK. Without objection.

Mr. BISHOP. If I can just say a couple of things from that article. In October 2014, a group of people sat around a table and discussed their campaign to bring a monument designation to southeast Utah for the region they called Bears Ears. This wasn't a group of Native American tribal leaders from the Four Corners, but board members from an increasingly successful conservation organization who met in San Francisco to discuss, among other things, if it was wise to "hitch our success to the Navajos." Many Utah Navajo are against the monument designation for Bears Ears, but the out-of-state tribal leaders behind Bears Ears Inter-Tribal Coalition who support it insist their effort is one that is locally driven, locally supported, and grassroots in nature. But the campaign is fueled in part by \$20 million in donations from two key philanthropic foundations headquartered in California that cite environmental protections as their key focus.

Then it also quotes Byron Clarke, who at the time was the vice president from the Navajo Blue Mountain Diné, who at the end of it simply said, of those coming in to talk about this area, he doesn't believe tribal officials who support a monument designation could name the landmarks at Bears Ears or know if wood gathering is good at places like Babylon Flat, Duck Lake, Little Dry Mesa, or Sweet Alice Springs. "I'd be met with blank faces." This is quoting Mr. Clarke, "The people who came here from a distance and will return to a distance had to GPS the Bears Ears to get there. I've never had to use GPS out there. Their idea of protection is to essentially make it famous. How does making it famous and putting it on the map for careless visitors protect it?"

And, finally, because one of the testimonies that was given—Shaun, I am glad you are here, I didn't realize your name is now Chapoose, but we will deal with that—criticized the legality of it. I would also like to introduce for the record a report from the American Enterprise Institute entitled, "Presidential Authority to Revoke or Reduce National Monument Designations," which it says it is actually a legitimate part there.

Mr. MCCLINTOCK. Without objection.

Mr. BISHOP. When we had to do the PROMESA board, we had to go through a lot of contortions to have presidential designations for those board members.

Governor Herbert, I think it is interesting to note that Governor Leavitt was here when we talked last time about the Grand Staircase-Escalante. He was governor at the time that was done. You are here with us this time to talk about Bears Ears because you were governor at the time. This is a big deal for Utah, and I appreciate you, as well as former Governor Leavitt, actually being here to illustrate that. The lands we are talking about here will be designated by the President because they are public lands, aren't they, not reservation lands?

Governor HERBERT. They are off reservation lands. They are public lands, again owned by all of America, and certainly next door to our local people there. That is why this should be a joint discussion as far as how we manage them.

Mr. BISHOP. I am going to try to do this very quickly. When we talk about motorized access for wood gathering, how significant it is, the Obama proclamation was silent as for proposing or abandoning it. The Inter-Tribal Council, Mr. Chapoose, simply said you wanted to enhance that. But in the testimony that was given, you criticized this bill for actually emphasizing that.

You have 19 seconds, Suzette. Why is it so important that you have that protection, which is only done in Curtis' bill and not in the proclamation?

Ms. MORRIS. Because, like I stated before, not all of the medicinal medicine is just right there in the area. We have to take the dirt roads to find the plants that we are looking for.

Mr. BISHOP. Under 10 seconds. Under the Obama proclamation, even if the Inter-Tribal Council wanted to enhance it, they did not have the authority or power to do it. Under Curtis' bill, they would have the authority or power to guarantee it would be there, and that is why it is stated in the first place.

Mr. MCCLINTOCK. The gentleman's time has expired. We will do a second round. I will begin and yield my 5 minutes to the Chairman.

Mr. BISHOP. All right. Let's go through this here.

Suzette, if I can come to you, there is the Northern Band of the Utes, your band of the Utes, and the Ute Mountain Band of the Utes. Your band actually formally endorsed Bears Ears, but was there ever a question asked to the membership of your band? Was it actually put to a vote or a public discussion by them?

Ms. MORRIS. The band that you are talking about is the Posey Band. They have no affiliation with the Ute Mountain. The Posey Band was the one that was given the allotments. There were 30, it was my direct ancestor that was given that land. But it was not Ute Mountain at the time.

Mr. BISHOP. Can you tell what happened when they were trying to take petitions down to Monument Valley?

Ms. MORRIS. Yes. We went to a meeting in Monument Valley where local Monument residents were there, and they were signing papers, signing petitions—it was a petition for the monument. But Navajo elders were denied translation. They didn't understand what they were signing. And they were given T-shirts in return for

that. But they asked for translation and were denied by fluent Navajo people.

Mr. BISHOP. OK. Thank you. I appreciate it.

Shaun, quick question. You showed us two exhibits outside the boundaries of this new national monument. Do you know where the first and third of them actually are?

Mr. CHAPOOSE. Actually, the first one is that granary one, right, a little draw. You want to flip them real quick. But the one that is ironic is there is a cradle board, which is a Ute——

Mr. BISHOP. Do you know where they are?

Mr. CHAPOOSE. Yes.

Mr. BISHOP. Where are they?

Mr. CHAPOOSE. In the Bears Ears region.

Mr. BISHOP. Where?

Mr. CHAPOOSE. Well, let me get out my little map for you, Congressman.

Mr. BISHOP. OK. Do you know where Fish Creek actually is?

Mr. CHAPOOSE. Yes, I have actually been there. I have been there recently.

Mr. BISHOP. Do you know what those land designations are right now?

Mr. CHAPOOSE. Yes.

Mr. BISHOP. What are they?

Mr. CHAPOOSE. They were a monument first. They have been rescinded, and now they are unprotected.

Mr. BISHOP. No. Wrong again. Both of those, all of those pictures that you put up there are already in wilderness study areas, which has greater protection than a monument would give to them.

However, Mr. Curtis, let me ask you, would you be willing to talk about expansion of some of these other particular areas, or would you also be willing to talk about expanding who gets to have some input in the selection process?

Mr. CURTIS. Absolutely. We have heard today a number of positive comments about the legislative process. And one of the points of the legislative process is that legislation gets better as it goes through the process. Absolutely.

Mr. BISHOP. One of the things I would like to also illustrate is we were criticized in written testimony of having no input or being allowed no process with it. What you see up there is the picture from the bulletin out there with the Ute Reservation. When I traveled out there to meet with the business council, Shaun, you weren't there that day, but I met with the others. The one other one is Representative Chaffetz, who was down meeting with President Begaye. We did have those kinds of conversations.

I would also like to introduce for the record three letters.

The first one took place on November 2, 2016, in which our staffs met with this Inter-Tribal Council as it was constituted at the time and at which time Bill Hedden from the Grand Canyon Trust said White House staff are convinced that the proclamation itself cannot establish full collaborative management and that they are thinking they might not do it because it would disappoint or anger the tribes. That is why what Mr. Curtis is doing is so significant.

But that was on November 2. On November 18, the delegation from Utah then sent a letter to them asking a request for draft

legislative language that would implement an equitable co-management system for the Bears Ears region.

Also, a letter from November 30 in which the response from the Bears Ears Inter-Tribal Coalition on their stationery said the Coalition is not prepared to provide additional draft language, nor would they in the future, although they said they were happy that we were actually talking to them.

[The information follows:]

CONGRESS OF THE UNITED STATES
Washington, DC 20515

November 2, 2016

Dear esteemed leaders of the Bears Ears Coalition:

We are committed to finding solutions to the various land designation and management challenges facing the Bears Ears region of San Juan County, Utah. Working together with tribal leaders, local officials, and other land-user groups, we believe that a proposal can be crafted that adequately designates the Bears Ears for conservation, recreation, and tribal uses.

We would also like to work with tribal leaders on a co-management proposal. It is widely known that co-management cannot be achieved through an Antiquities Act designation. Only the congressional process can craft a meaningful co-management plan in which the tribes are made equal to other participants.

If a national monument were to be designated at the Bears Ears, co-management would not be part of the proclamation. In an October 2016 memo, Bill Hedden, Executive Director of the Grand Canyon Trust, wrote to his Board of Trustees: "White House staff are convinced that the proclamation itself cannot establish full collaborative management . . ." He went on to write: "The great danger to getting this done is that the White House will decide that not designating a monument at all is better than taking an action that will disappoint or anger the tribes."¹

Further, recent Secretarial Order 3342 issued by Secretary Sally Jewell left much to be desired by tribal leaders looking for a seat at the land-planning table. The Order, intended to boost tribal involvement in the land planning process, was littered with caveats and loopholes. The Department of Interior explicitly acknowledges: "[T]he Order does not address 'co-management'."²

Clearly the administration can give tribes coordination. But we all know what that means. It means tribes can participate in all the meetings. It means tribes can listen to the discussion. It means tribes can even make recommendations. But at the end of the day, coordination puts tribes in the role of an advisor. It doesn't have any real teeth or authority.

CONGRESS OF THE UNITED STATES
Washington, DC 20515

November 18, 2016

To the Co-Chairmen and Members of the Bears Ears Inter-Tribal Coalition:

The November 2, 2016 meeting involving the Bears Ears Inter-Tribal Coalition and our offices was very productive. We were grateful for the time of the Coalition members who were able to attend. We look forward to continued dialogue as proposals are put forward concerning the Bears Ears region of Utah.

Following up on the conversations we had during our meeting, we are writing to formally request draft legislative language that would implement an equitable co-management system for the Bears Ears region. It has been widely reported that co-management cannot be achieved through an Antiquities Act designation. We believe

¹ Grand Canyon Trust, Board of Trustees Meeting, 1-1, (Oct. 14, 2016).

² Dept of the Interior, Secretarial Order No. 3342, Identifying Opportunities for Cooperative and Collaborative Partnerships with Federally Recognized Indian Tribes in the Management of Federal Lands and Resources, Sec. 2(c)(3) (Oct. 21, 2016).

the congressional process can craft a meaningful co-management plan in which the Tribes are made equal to other participants.

We are committed to finding legislative solutions to the various land designation and management challenges facing the Bears Ears region of San Juan County, Utah. Open dialogue and communication will ensure that all points of view, options, and solutions are considered.

We look forward to hearing from you and stand ready to work together.

Sincerely,

Orrin Hatch,
United States Senator

Rob Bishop,
United States Representative

Mike Lee,
United States Senator

Jason Chaffetz,
United States Representative

BEARS EARS INTER-TRIBAL COALITION

November 30, 2016

To Utah Congressional Delegation,

Thank you for hosting a meeting between tribal leaders from the Bears Ears Coalition and Utah congressional staff earlier this month. We sincerely valued the opportunity to hear directly from you and to discuss some of our concerns with the Utah Public Lands Initiative (PLI).

As you know, each Tribe that comprises the Bears Ears Coalition has continually expressed an interest in collaboratively managing the Bears Ears landscape. We are pleased that you might be willing to accept our approach to collaborative management. After internal deliberation, however, the Coalition is still not able to support the Public Lands Initiative as drafted. As discussed at the meeting, some problematic areas of the PLI include:

- The failure to use the boundaries, encompassing 1.9 million acres, as proposed by the Coalition after years of expert research and analysis of this area;
- The removal of 100,000 acres of land from the Uintah and Ouray Indian Reservation;
- Amendments to the Utah Navajo Trust Fund absent consultation with the Navajo Nation;
- The long term consequences that the transfer of energy permitting and regulatory authority to the State will have on the landscape and nearby communities;
- Provisions validating Utah's claimed ownership of PL 2477 rights of way;
- Provisions allowing mining in much of the 1.9 million acre area proposed by the Coalition.

These are only a few of the concerns that the Coalition has with the PLI. Until adequately addressed, the Coalition is not prepared to acquiesce to a draft bill by providing additional draft language. Nonetheless, we are grateful for the opportunity to discuss these issues with each of your offices.

Sincerely,

Alfred Lomahquahu,
Bears Ears Co-Chair
Hopi Vice-Chairman

Carleton Bowekaty,
Bears Ears Representative
Pueblo of Zuni Councilman

Mr. BISHOP. This idea that we did not have any of those discussions is one of the most bogus claims that happens to be there.

Mr. Chairman, on this, I think it would be good to actually have another because there are so many inconsistencies in the testimony

that was presented, written by whomever, whatever attorneys actually drafted it, that it would be nice to go through some of that once again in detail. It would be nice to talk about the actual number of lootings. I have 22 seconds.

Matt, do you know how many lootings have taken place in like a 5-year span in this particular area?

Mr. ANDERSON. It is very few. In fact, I don't have an exact number, but it is less than the Grand Staircase-Escalante number of lootings during the same period.

Mr. BISHOP. Twenty-five. Under the proclamation or the Inter-Tribal Council, do they actually do anything about that?

Mr. ANDERSON. No.

Mr. BISHOP. Once again, Mr. Curtis, what does your bill do about that?

Mr. CURTIS. This bill is a management plan that protects the area.

Mr. BISHOP. Puts money into it?

Mr. CURTIS. Not just the President Trump designation, but the broader 1.35 billion acres.

Mr. BISHOP. Do you authorize money and manpower?

Mr. CURTIS. Yes.

Mr. MCCLINTOCK. I am afraid my time has expired.

Mr. Lowenthal.

Mr. BISHOP. You need to have more control of your time, Mr. Chairman.

Mr. LOWENTHAL. Thank you. I would like to make a comment before I ask questions. There has been a lot of talk about tribal management, the input of the tribes, questions have been asked frequently to Ms. Morris about the input of the tribe. To me, the input from the Inter-Tribal Coalition, the sovereign nations that live there is deafening, the silence. They have been excluded from this process, and not only is it inappropriate, it is totally disrespectful of what is taking place in this bill. That is where I am going to start.

I want to ask Mr. Chapoose, the bill establishes a tribal management council for the Shash Jáa National Monument. However, the positions on the council will be filled by presidential appointment and reviewed by the Utah's congressional delegation. I ask you, does the Utah delegation speak for or represent sovereign tribal nations or tribal governments?

Mr. CHAPOOSE. There again, the agreements that exist in this, the United States, are particularly direct to us, a federally recognized tribe and the U.S. Government. It does not include the state of Utah or the county. And while I have the opportunity, I would like to point out, if we are going to go through the motions and have theater, I mean, let's do it. But we, as tribal leaders, have gone to this battle time and time again, and all we have asked in this process is an opportunity to represent ourselves. But throughout this process, all I have seen is select individuals who have been determined by people of power to speak on behalf of us, the tribal leaders. The tribal leaders are sitting here right now. You have had comment after comment talking about Navajo Nation. The Navajo Nation president is seated right behind me. If we are going to have

a conversation at a government-to-government level, it requires us, the elected bodies, to be the ones putting forth that information.

So, I find this rather interesting that I am sitting here to assist you and help you, but if I am going to be basically given history lessons too, I find that interesting also, since I am part of the history that we are talking about.

Mr. LOWENTHAL. Thank you. I want to follow up. Are you aware of any tribal governments that support President Trump's action to eliminate the Bears Ears National Monument? Any tribal government?

Mr. CHAPOOSE. There again, I never have seen anybody come forward and say anything. I have seen the articles they have talked about, as the Congressman pointed out. We are talking about a group of Shoshones who basically don't even own a chunk of land and were able to work a deal with the state of Utah to get a chunk of land.

Our tribes, the ones who are standing up, are old treaty tribes. And this is very important that we understand this: we pre-date the states. Our agreements exist with the U.S. Government. They are treaties. And the boundaries, which the county likes to point out, and as we have a local resident of the area saying that none of us live there, they forget, it is not that we don't live there, we were forced out of there. Where we reside today is not the choosing of our respective nations. They were the locations that were given and we were placed on after all the lands, which were our aboriginal lands, were taken from us.

So, I think before we have discussions on history, we better make sure we are talking the proper history. But to my knowledge, there is no tribe. If anything, I have received letters from 20 treaty tribes from the northwest. I think we gained support from NCAI, the National Congress of American Indians, one of the oldest establishments in existence dealing with issues in the Federal Government. And let it be known: The Ute Tribe is one of the charter members of that organization, which was founded to protect and make sure these types of actions do not occur.

Mr. LOWENTHAL. So, if this bill goes forward, in your view, Mr. Chapoose, will this bill lead to improved government-to-government consultation with any of the five tribal governments that make up the Bears Ears Inter-Tribal Coalition?

Mr. CHAPOOSE. No, it will not. All this is going to do is divide us further. What is pretty interesting in this, and we have been to Congress quite a bit asking for other issues involving Indian Country, we know there is a challenge in court. It should be up to this body to do nothing further until those avenues are exhausted. To push it through basically shuts the door on the legal process, so this is not going to help anybody. If anything, I guess we are going to draw our lines, and we are going to start pushing harder and harder. But if we are talking about working together, there again, I am an elected person representing a Nation. The conversation you are going to have with me may not be what you think, but it will be an honest conversation based off a government-to-government requirement and law that exists in the United States.

Mr. LOWENTHAL. Thank you, and I yield back.

Mr. MCCLINTOCK. Mr. Curtis.

Mr. CURTIS. Thank you. I would like to discuss just briefly, and then ask a question, the difference between the Bears Ears Commission and the co-tribal management. We have talked a little bit about the Bears Ears Commission, and I want to make clear the point that the Bears Ears Commission is kept fully intact in this bill. And not only is it kept fully intact, there is a requirement from the co-tribal management that they actually consult the Bears Ears Commission as it was conceived. And not only that, there is a requirement that if they don't listen to that advice, that they provide a written explanation about why they are not listening to that advice. I think that is very important to demonstrate the respect that we do have for the Bears Ears Commission and the work that was done on that. There is a provision in the bill that requires consultation with the Utah delegation from the President and to who he selects on that committee. I would certainly consider it a friendly amendment to add in that that is also in consultation with the Bears Ears Commission, to make sure that that input is respected and garnered as well.

Mr. Anderson, you may not have an answer to this question, but let me try you on this. Are you familiar with the requirements in the Constitution that require the President to select who is on this committee? And if so, could you explain why that requirement is in this bill?

Mr. ANDERSON. I don't have the history of the bill, but my understanding is it will reflect that elections matter. While there may be a Republican in today, I am sure there is going to be a Democrat in the future, and so the selection of the committee members will largely be a reflection of the elections we have in this country. But I cannot speak to the history specifically.

Mr. CURTIS. OK. The Bears Ears Commission was simply advisory. Under that situation, it is acceptable to not involve the President in the selection because the co-tribal management has decision-making authority, the Constitution actually requires that to be selected by the President. But as the author of this bill and this being my bill, I certainly would entertain any opportunity to insert more from the Bears Ears Commission into this that would give them the representation that they are looking for.

With that, Mr. Chairman, I yield my time.

Mr. MCCLINTOCK. Mr. Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman.

Mr. Chapoose, the first question or a comment, a reaction to other comments, about the manipulation by outside organizations relative to Native people and their involvement and that they were pulling the strings and that the tribal leadership that was involved, the five nations involved in this, were merely puppets of that process—your reaction to that?

Mr. CHAPOOSE. Yes. First of all, apparently, they are reading a different novel than I was participating in. When this came about, it was actual tribal leaders that approached us in our tribal headquarters. It was not non-Indians or lobbyists. These were elected leaders, and they came to us with a proposition, with a question. The request was, "Look, we know this place is significant. We all have cultural ties. Nothing is being done to protect it. And it is

going to require us as tribal leaders to step up and do it. And as sovereign governments, we have that right and authority.”

According to a lot of the testimony, apparently, they were in the room, because I sure wasn’t. But what we did as tribal leaders was we gathered and we talked. We talked about how to best protect this valuable resource, because we were not getting any protection.

So, the whole assertion that the environmentalists and everybody else is calling the shots here, I am not a puppet, I am a tribal leader. And every one of us tribal leaders take our jobs very seriously and have nothing but the best interests of our respective nations in mind when we make our decisions, and we will stand by the decisions we make.

Mr. GRIJALVA. If we are serious—and I agree with that—about creating a tribally co-managed monument, we would want to, I assume, consult with the tribes associated with Bears Ears. You have mentioned that, in the development of this bill, there was no consultation to begin with. The Ute Tribe does not support Section 105, the tribal management council. Can you explain the opposition to that?

Mr. CHAPOOSE. Well, there again, consultation. If they truly would have reached out and talked to us, the tribal leaders, the sovereign tribal leaders, we probably would have been able to assist them in a lot of it. But what happened was—and I mean it has been stated—let’s go find a citizen of a tribe or a member of a tribe, and because of their basic support of our agenda, we put them on a platform and say—look, these are the tribal leaders. The optics happen like this all the time.

But the Governor knows and the county should know who the elected bodies are. They have an organization within the state of Utah called the Utah Tribal Leaders. In there, it has a list, and basically all the information required so that you can reach out to the sovereign elected governments which are within the state of Utah. So, when this comes about, we are the last to hear, so we are in here objecting to provisions, we are objecting to some of the language. But there, again, if they would bother to talk to us. I think Congressman Curtis needs to realize, I am also a private land holder in his district, just like I am a private land holder in Congressman Bishop’s district. So, all I can say is the day that you realize that sovereign tribes are there to assist you and you reach out to them, I think you can avoid a lot of this. But if you are going to continue to do this, I guess we will continue to have more hearings and more discussion.

Mr. GRIJALVA. Again, let me follow up. Do you agree with the assertion that the monument designation does nothing to protect cultural resources, historic resources, sacred sites, and that this bill is a better model if we really want to protect those? That is question Number one. Number two, let’s not skim over the issue of sovereignty. Let’s not skim over the issue of consultation and trust responsibility, which I think are integral parts of this whole discussion about this legislation and the precedent that it sets on those issues.

Mr. CHAPOOSE. I will answer this quickly as my time will run out. First of all, this bill does everything in reverse of what the initial monument did. And even though they make this comment that

you are in an advisory role, we are aware of what our role was, because we were actually the participants who made sure that we got what we asked for.

Second of all, consultation. This is the beginning of the end. This is another basic, "We are going to mandate, as in the 1800s, what is best for the Native American tribes, make the decisions here at the congressional level," and we once again will suffer the consequences of it. We are the formal governments. It is law that we have a government-to-government relationship. And, hopefully, I am able to answer that so I don't go over my time limit.

Mr. GRIJALVA. I yield back, Mr. Chairman. Thank you.

Mr. MCCLINTOCK. Thank you.

General Bergman.

Mr. BERGMAN. Thank you.

Mr. Chapoose, just one quick question here for point of clarification. Is the land that we are talking about tribal land?

Mr. CHAPOOSE. No. That has never been the argument. It is public land.

Mr. BERGMAN. Just a point of clarification here.

Chairman McClintock, what I would like to do is yield back the remainder of my 5 minutes to Chairman Bishop if he would like.

Mr. MCCLINTOCK. Chairman Bishop is recognized.

Mr. BISHOP. Thank you. Look, we are going to have the continuous spins on this story going forward. But the key issue is who actually makes decisions, who gets to sit there as a nice advisory board that will be ignored by BLM when they don't want to, and who can actually tell BLM how to manage this particular property, which is on BLM lands, which is why the President has to make those appointments. That is the law. The only way it can be done is by legislation as well. If we are giving them that kind of authority, it has to be done by legislation. It cannot be done by proclamation or anything else.

Bears Ears Inter-Tribal Coalition did talk at one time about this concept. And they said the effort to preserve Bears Ears has always been premised on collaborative management between tribes and the Federal Government. The problem is the proclamation does not do that. The Commission is a fraud. It is a sham. They get to advise, but the advice can easily be rejected.

Which is why, Matt, I appreciate your testimony on what happened at Grand Staircase-Escalante, which shows that land managers have the ability to arbitrarily change things, and there is nothing, nothing, the Commission can do about it.

However, if you actually go with what Representative Curtis is proposing, by legislatively creating a body that actually does have the ability to make those management decisions that will then be carried out by BLM, that actually goes to what the Inter-Tribal Coalition wanted in the first place but did not get from the Obama proclamation and does not have now if the Obama proclamation goes forward. Let me ask in the last couple of minutes, Suzette, how far away do you live from this land?

Ms. MORRIS. Approximately 45 minutes.

Mr. BISHOP. The Hopis, how long would it take one of them to get there, that are part of the Commission?

Ms. MORRIS. Maybe 2 to 3 hours.

Mr. BISHOP. Why is this land so important to you who lives right next door to it?

Ms. MORRIS. We know the land, we love the land, and we don't want—like Shaun stated, he is an elected official for Ute Nation. Only in that area is he elected. With our elected officials, the community is what elects them, so I think it should have been a community effort. It should have been brought to the attention of the community.

Mr. BISHOP. How do you know what areas are sacred in Bears Ears?

Ms. MORRIS. Because we were taught. We were taught that you do not go into areas that are ruins because that was where people lived. And we were taught if you go in there, then you are disturbing them. That is the reason why those ruins were left alone, because we were taught that.

Mr. BISHOP. Let me say, that becomes the crux of what this particular issue is to me. What we are talking about is, how do we empower people who actually have a close tie, an ancestral tie, a family tie to be able to make real decisions, not mock decisions, but real decisions? And it can only be done legislatively, and it can only be done in this particular language. Our effort is to try to empower people like you, who are tied by ancestry, family, grandparents to that particular area. That is why in your particular area, they do not support the proclamation. That is why the Aneth Chapter, which is the largest Navajo chapter within the state of Utah, does not support the proclamation, but they do support the Curtis bill.

Governor, does the state of Utah support the Curtis bill?

Governor HERBERT. Well, you know—

Mr. BISHOP. Let me rephrase that, you can't speak for the state of Utah.

Governor HERBERT. It is hard for me to speak—I support it.

Mr. BISHOP. You support it.

Governor HERBERT. But I can tell you that I think we tend to look at history, we tend to look at who is to blame, we point our fingers. We have a failure to communicate very well. That blame goes around to everybody. I have great respect for Councilman Chapoose, and President Begaye is a good friend of mine, and others. We have different points of view on this. But if we really care about solving the problem—or if we are going to continue to fight and argue, we can be in court for the next 5 or 6 years—if we really care about actually treating the Bears Ears with the reverence and respect it deserves and that the Native Americans want it to have—

Mr. MCCLINTOCK. Governor, I am going to interrupt for just a moment. General Bergman's time has expired, but Congressman Bishop now has 5 minutes in his own rights.

Mr. BISHOP. I am going to ask you to finish it off.

Governor HERBERT [continuing]. It needs to be done legislatively. Everybody agrees that is the best way. You can modify and improve it. Congressman Curtis has already said: Hey, I hear some things here maybe we need to take a look at. We have laws in the way that may prohibit it.

These are lands owned not by Utahns only and not by the Navajos only or other Native tribes. These are owned by all

Americans. You, the Congress, are responsible for how we in fact manage those lands through the Interior Department and through the BLM. The only way we can resolve this to the optimal benefit, respecting the differences of opinion, and come together with resolution, is a legislative fix. Anything else will continue to have us argue, fight in court, and never get resolution of this issue. So, the challenge for this body and the rest of your colleagues is to find a legislative solution, getting input from all the stakeholders, and then come up with legislation to resolve the issue.

Mr. BISHOP. If we do the legislative approach and we go forward, we can throw strikes, because home plate doesn't move. I yield back.

Mr. MCCLINTOCK. I want to thank our panel for a very spirited discussion on a very important subject and look forward to continuing that discussion, which is, as the Governor has pointed out, the essence of the legislative process, which is, once again, why the Constitution gives Congress authority over these matters, not the President, so that these voices can be heard. And because of the request for an additional day of hearings under House Rule 11 clause 2(j)1, we will reconvene to continue this discussion at a later date. I would ask the Minority to provide the names and contact information of their witnesses to the Subcommittee Clerk by 5 p.m. today.

Without objection, the Subcommittee stands in recess pending call of the Chair.

[Whereupon, at 11:58 a.m., the Subcommittee was recessed, subject to the call of the Chair.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

Rep. Bishop Submission

PREPARED STATEMENT OF REBECCA BENALLY, SAN JUAN COUNTY COMMISSIONER

Thank you, Committee Chair and Ranking Member for inviting me to testify in support of House Resolution 4532. My name is Rebecca Benally, San Juan County Commissioner, a member of the Navajo Tribe. I appreciate the opportunity for my voice and the community voice to be heard.

In our community, public lands are our most valuable resource. The land is our inheritance, handed down from generation to generation. We treasure the land. We take care of the land.

H.R. 4532 is a step to create the first tribal managed national monument. The Shash Jáa National Monument incorporates land within the Bears Ears area. Unfortunately, the former Bears Ears proclamation never mentioned tribal management just an advisory commission.

It is stated that, "The purpose of the Shash Jáa National Monument shall be to protect, conserve and enhance the unique important historic, sacred, cultural, scientific, scenic, archaeological, natural and educational resources of Shash Jáa National Monument."

The purpose is only worthwhile if it truly serves the people. And no group of people has more to lose or gain, than the local tribes. We use the land for hunting, wood cutting, gathering medicinal herbs and for sacred ceremonies. By creating the Shash Jáa Tribal Management Council, you are giving the Native American people the opportunity to manage the land of their ancestors and maintain access.

By supporting H.R. 4532, you are listening to a group that has been silenced for too long and finally allowing us a seat at the table. We all come from different backgrounds, but we want the same results. We want land that is well-managed and accessible to all people. We support the language of H.R. 4532. We agree that the land should be protected. Currently there are 14 regulation and laws in place, such as:

- 1935 Historic Sites Preservation Act
- 1960/1974 Reservoir Act
- 1964 Wilderness Act
- 1966 National History Preservation Act
- 1968 Wild and Scenic Rivers Act
- 1974 Archaeological & Historic Preservation Act
- 1976 Federal Lands Policy and Management Act
- 1978 American Indian Religious Freedom Act
- 1979 Archaeological Resources Protection Act
- 1980 Amendment-Executive Order Protection & Enhancement of Cultural Environment
- 1990 Native American Graves Protection & Repatriation Act
- 1996 Indian Sacred Site Protection Act
- 2000 Consultation & Coordination with Indian Tribal Government Act
- 2003 Preserve American Act

Therefore, H.R. 4532 is a step in the right direction to create the Shash Jaa Tribal Management Council that will benefit the local tribes and groups to work together to manage the land.

It is an honor to be here today. Thank you for listening to the local people, San Juan County, Utah. I also would like to thank the Utah delegation for showing respect to the process and putting forward a thoughtful and inclusive bill.

Rep. Grijalva Submissions

PREPARED STATEMENT OF THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

The Advisory Council on Historic Preservation (ACHP) would like to take this opportunity to share its views with the Subcommittee regarding the Shash Jaa National Monument and Indian Creek National Monument Act (H.R. 4532). The ACHP is the independent federal agency that promotes the preservation, enhancement, and sustainable use of our nation's historic resources. Created by the National Historic Preservation Act of 1966, the ACHP is charged with advising the President and Congress on national historic preservation policy. In that capacity the ACHP often provides its views to the Congress on legislation under consideration that may affect the national historic preservation program and the preservation of historic properties of importance to the American people. In fulfillment of this duty, the ACHP advises against enactment of H.R. 4532.

The ACHP has long supported the National Monument designation system founded on the provisions of the Antiquities Act of 1906 as an effective historic preservation protective process. In the ACHP's legislative agenda for the 114th and the 115th Congresses, the membership specifically included opposition to any legislative efforts to undermine the authority of the President to designate National Monuments under the Antiquities Act.

As recently as November 2017, the ACHP membership took a position on H.R. 3990, the National Monument Creation and Protection Act, and resolved that:

“The ACHP supports Presidential designation of National Monuments as an important tool for the protection of historic properties on federal land
 . . .”¹

¹The resolution in its entirety reads as follows:

“Whereas, the ACHP supports Presidential designation of national monuments as an important tool for the protection of historic properties on Federal land;

Whereas, the ACHP is concerned that the National Monument Creation and Protection Act (H.R. 3990) makes extensive changes in the current national monument designation process that would limit the types of historic properties that could be protected and deemphasize protection of cultural and natural resources in the designation process, thereby undermining a preservation tool that has been effectively used for more than a century to protect some of the nation's most iconic places; and

Whereas, the ACHP supports transparency and consultation with affected governments and stakeholders in the designation process for national monuments while respecting the role of the federal government as a steward of these resources for the entire nation;

It is from this perspective that the ACHP must express its concern about a fundamental provision of H.R. 4532. Section 4 of the bill declares null and void Presidential Proclamation 9558 that established the Bears Ears National Monument. This National Monument was established by the President following the statutory directive given to him by the Congress in the Antiquities Act. It was an exercise of a valid legal authority based on over a century of practice, conforming to standards and procedures that have been thoughtfully evolved and scrupulously followed to achieve reasoned determinations through the objective application of professional standards and consideration of national and local interests, needs, and priorities.

The ACHP readily acknowledges that the Congress possesses the authority through legislative action to modify or rescind National Monument designations made by the President. However, we would note that the Congress has never, in the over century-long history of the Antiquities Act, exercised that power to vacate a presidential action. The ACHP opposes H.R. 4532 on those grounds, as the primary provisions that follow to establish two new reconfigured and drastically reduced National Monuments are premised on the abolition of the existing Bears Ears National Monument.

The ACHP appreciates this opportunity to share its views with the subcommittee. We value our longstanding and mutually beneficial relationship in working with the Natural Resources Committee and look forward to continuing to assist the committee in our shared goals to preserve and protect the Nation's irreplaceable cultural heritage. Please do not hesitate to call on me or my staff with any questions or requests for assistance on these issues.

SIERRA CLUB,
WASHINGTON, DC

January 9, 2017

Hon. ROB BISHOP, *Chairman*,
Hon. RAÚL GRIJALVA, *Ranking Member*,
House Committee on Natural Resources,
Washington, DC 20515.

Dear Member of Congress:

On behalf of our more than 3 million members and supports, the Sierra Club strongly urges you to oppose the Shash Jáa National Monument and Indian Creek National Monument Act (H.R. 4532).

Late last year, President Donald Trump issued an unlawful order to repeal the Bears Ears National Monument and replace it with two smaller monuments, leaving nearly 85 percent of the original monument unprotected. That same day, Representative John Curtis (UT-03) introduced the Shash Jáa National Monument and Indian Creek National Monument Act to ratify Trump's illegal repeal of the Bears Ears and make his unlawful order permanent.

These actions to eliminate parts of Bears Ears National Monument are an affront to the sovereign Tribal Nations who worked tirelessly to protect their cultural heritage for future generations. Bears Ears National Monument was protected at the behest of five sovereign Tribal Nations—Navajo, Hopi, Ute, Ute Mountain Ute, and Zuni Tribes—with strong historical, spiritual and cultural ties to these public lands. Six out of seven Navajo Chapter Houses in Utah supported the designation of Bears Ears National Monument. No Tribal government opposed it.

The Bears Ears region, which was first identified for protection in 1936, holds more than 100,000 Native American and Mormon cultural and archaeological sites that have been threatened by rampant looting and grave robbing. The actions by President Trump and Representative Curtis once again put these sacred sites and artifacts at risk.

Bears Ears has been targeted because it holds resource potential that the oil and gas industry wants to access. Opening the monument to development will threaten cultural and natural resources that can never be replaced. Our national parks, public lands and waters protect a shared history and culture that are worth more than the minerals beneath them.

Now, be it resolved that the ACHP opposes H.R. 3990 as reported out of committee and directs the chairman to advise the Administration and the Congress regarding these concerns."

Furthermore, national parks, monuments, public lands and waters are a critical part of the nation's economy—especially for rural and Western communities that benefit from the tourism, outdoor recreation and quality of life associated with healthy public lands. The Utah Tourism Board, in fact, has touted Bears Ears Monument as a destination for visitors to the state.

Regions surrounding national monuments like Bears Ears have seen continued growth or improvement in employment and personal income, and rural counties in the West with more federal lands had healthier economies, on average, than their peers with less protected lands. Outdoor recreation alone generates \$887 billion and 7.6 million jobs every year across the U.S. In Utah, outdoor recreation generates \$12 billion for the local economy. And in 2016, National Parks saw a record 331 million visits nationally, contributing almost \$35 billion to the U.S. economy.

This attack on Bears Ears from the Administration and Congress sets the stage for additional attacks on all of America's national parks and public lands, and shows the willingness to ignore the law, science, tribal sovereignty and the will of the American people. National parks and protected public lands and waters help define who we are as a nation. Attempts to rip apart the fabric of national monuments are an assault on our nation's historical, cultural and natural heritage.

The Sierra Club strongly urges you oppose the Shash Jáa National Monument and Indian Creek National Monument Act (H.R. 4532), and any attempt to weaken and destroy our public lands like Bears Ears National Monument.

Sincerely,

MICHAEL BRUNE,
Executive Director.

THE NAVAJO NATION,
WINDOW ROCK, ARIZONA
January 19, 2018

Hon. ROB BISHOP, *Chairman,*
Hon. RAÚL GRIJALVA, *Ranking Member,*
House Committee on Natural Resources,
1324 Longworth House Office Building,
Washington, DC 20515.

Re: Clarification to Statements and Representations Made in the Hearing on
H.R. 4532—Regarding Consultation with the Navajo Nation

Dear Chairman Bishop and Ranking Member Grijalva:

The Navajo Nation wishes to clarify and correct an important misrepresentation made at the Legislative Hearing on H.R. 4532 held on Tuesday, January 9, 2018. Specifically, it was stated at the Hearing that tribes were consulted with during the development of H.R. 4532. This is incorrect. The Navajo Nation and the other tribes of the five-tribe Bears Ears Inter-Tribal coalition were not consulted with prior to the introduction of H.R. 4532, and we are not aware of any other tribe that may have been consulted with on this Bill.

As support for the statement that tribes were consulted with on the Bill, several images were put up on the screen. One of the images was a picture of former Representative Jason Chaffetz with Navajo Nation President Russell Begaye and Vice President Jonathan Nez. To be clear, this picture was not taken during any consultation or meeting on H.R. 4532, and Navajo Nation leadership was not asked to provide any input on the Bill before it was introduced. Representative Curtis, the sponsor for H.R. 4532, was not even in office when the picture of Representative Chaffetz and the Navajo leadership was taken. The introduction of three letters from November 2016 to the record by Chairman Bishop also pre-date Representative Curtis's election to office by a full year. Those letters simply could not have related to H.R. 4532 and certainly do not stand as proof of consultation with tribes on the Bill.

As an additional point of clarification, the individual tribal member witness (Suzette Morris) stated that tribes, and the Navajo Nation in particular, "never made a statement on why they wanted the Monument." This is simply untrue. The Nation has issued numerous official statements explaining why we support the 1.35 million-acre Monument. For example, see our statements set forth in attached Resolution No. NABIJA-O1-17, "Relating to Naakik'iyáti": Supporting the

Proclamation Establishing the Bears Ears National Monument by the President of the United States Barack Obama and Oppose [sic] Congressional Action to Reverse the Presidential Proclamation.”

Ms. Morris also definitively answered “No,” when questioned by Representative Thompson whether local tribes were consulted in advance of the issuance of the Obama proclamation. This too is incorrect. Not only did we consult on the Monuments, we actively advocated for the Monument designation. In that process, we met with the Obama administration numerous times, often done in unity with the other tribes of the Bears Ears Inter-Tribal Coalition. When the proclamation was finally issued, we were elated, as Resolution No. NABIIJA-01-17 suggests, and we remain committed to preserving the Monument, as our complaint in *Hopi Tribe, Navajo Nation, et al. v. Trump, et al.* suggests.

Finally, testimony was added to the record at the Hearing on behalf of Alfred Ben, who serves in a community chapter capacity on the Navajo Nation. As clarified by our Attorney General in the attached letter to the Committee, dated January 9, 2018, Navajo law does not authorize local government or chapter individuals such as Mr. Ben to speak on behalf of the Navajo Nation. Accordingly, you should be clear in understanding that Mr. Ben’s testimony is submitted in his personal capacity only.

The Navajo Nation is obligated to correct these misrepresentations for the official record. The Navajo Nation definitively states that we had no consultation on H.R. 4532, and we hereby reaffirm our opposition to H.R. 4532. Indeed, on Tuesday this week, our Naabik’iyati’ Committee (the Navajo Nation Council committee of the whole) unanimously passed Legislation No. 0015-18, “An Action Relating to Resources and Development Committee and Naabik’iyati’ Committee Opposing H.R. 4532 Titled ‘Shash Jaa National Monument and Indian Creek National Monument Act.’” Legislation No. 0015-18 formally sets forth the Nation’s official policy position in opposition to H.R. 4532. I will forward a copy of the legislation to be added to the hearing record when the final, official copy is available.

In closing, I ask that the Committee honor true facts, and honor Navajo sovereignty. I also respectfully request that the Committee hold a hearing on H.R. 4518, which the Nation was consulted on and strongly supports. H.R. 4518 truly honors tribes and tribal sovereignty, and ensures a meaningful role for us in managing the lands and cultural, historical, and religious patrimony we seek to protect in the Bears Ears region.

Respectfully,

RUSSELL BEGAYE,
President.

UTE MOUNTAIN UTE TRIBE,
TOWAOC, COLORADO

January 10, 2018

Hon. ROB BISHOP, *Chairman,*
Members of the House Committee on Natural Resources,
1324 Longworth House Office Building,
Washington, DC 20515.

Re: The Official Representation and Position of the Ute Mountain Ute Tribe
Regarding the Bears Ears National Monument

Dear Chairman and Honorable Representatives:

An individual tribal member purported to represent herself as a representative of White Mesa and the Ute Mountain Ute Tribe at the congressional hearing on H.R. 4532, held on January 9, 2018. Contrary to statements that she “speak[s] for Ute Mountain” and “speak[s] for White Mesa,” Ms. Suzette Morris is not an elected official representative of White Mesa, a community of Ute Mountain Ute tribal members residing on Ute Mountain Ute lands within San Juan County, Utah. The handpicking of an unelected tribal member, that serves the agenda of anti-monument special interests groups, to speak on behalf of White Mesa is a blatant violation of the unique sovereign to sovereign relationship shared between the federal government and federally-recognized Indian nations, as acknowledged in treaties, statutes, federal common law, and the U.S. Constitution.

The Ute Mountain Ute Tribe, not individual bands within the tribe, is the federally-recognized tribal government entity that is owed a fiduciary duty by the federal government. The seven-member elected body that comprises the Ute Mountain Ute Tribal Council, which includes Elaine Cantsee, the White Mesa council representative, is the appropriate entity that officially speaks on behalf of the Ute Mountain Ute Tribe and all its communities, including White Mesa and Allen Canyon. We ask that you respect and honor the laws of the Ute Mountain Ute Tribe that govern official representation on behalf of the Tribe.

By way of official resolutions, community meetings attended by tribal leaders in White Mesa, and as a member of the Bears Ears Inter-tribal Coalition, the Ute Mountain Ute Tribe has maintained an official position advocating for the protection of the natural, cultural, and archeological resources of our ancestral homelands through a national monument designation, as contemplated in Presidential Proclamation 9558. The Ute Mountain Ute Tribe is also engaged in active litigation challenging the legality of the current administration's attempt to modify the Bears Ears National Monument. H.R. 4532 is an attempt to legislatively confirm the improper action by the presidential administration. As such, and for the reasons indicated in the statement of the Bears Ears Inter-tribal Coalition which includes the Utah congressional delegation's failure to consult with any of the Indian nations, the Ute Mountain Ute Tribe officially opposes H.R. 4532.

As trustees to Indian nations, we ask that the House Committee on Natural Resources refrain from the shameful practice of using individual tribal members that conveniently serves the narrative of special interests groups or the Utah congressional delegation, and not the official views of elected leaders from the Ute Mountain Ute Tribe. In all future dealings and matters concerning the interests of the Ute Mountain Ute Tribe we ask that you respect tribal sovereignty and the trust relationship by engaging directly with the elected Tribal Council.

Respectfully,

Harold Cuthair,
Chairman

Colleen Cuthair,
Vice Chairwoman

Elaine Cantsee,
White Mesa Council Representative

Marissa Box,
Council Secretary

DeAnne House,
Treasurer

Juanita Plentyholes,
Tribal Council

Prisllena Rabbit,
Tribal Council

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE
COMMITTEE'S OFFICIAL FILES]

Rep. Bishop Submissions

- American Enterprise Institute, “Presidential Authority to Revoke or Reduce National Monument Designations,” by John Yoo and Todd Gaziano, March 2017.
- Deseret News*, “Big money, environmentalists and the Bears Ears story,” by Amy Joi O’Donoghue, August 4, 2016.

Rep. Grijalva Submissions

- The Navajo Nation, Testimony by President Russell Begaye and Council Delegate Davis Filfred.
- Outdoor Alliance, Letter addressed to Chairman Tom McClintock and Ranking Member Colleen Hanabusa, dated January 8, 2018.

- Southern Utah Wilderness Alliance, Letter addressed to Representatives Bishop, Grijalva, McClintock and Hanabusa, dated January 11, 2018.
- Resolution NABIJA-01-17 of the Naabik'iyati' Committee of the Navajo Nation Council.
- Archaeology Southwest, Statement of William Doelle, President and CEO, dated January 9, 2018.
- Access Fund, Testimony on The Shash Jáa National Monument and Indian Creek National Monument Act, submitted by Erik Murdock, Policy Director, dated January 12, 2017.

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**LEGISLATIVE HEARING ON H.R. 4532, TO
CREATE THE FIRST TRIBALLY MANAGED
NATIONAL MONUMENT, AND FOR OTHER
PURPOSES, “SHASH JÁA NATIONAL MONU-
MENT AND INDIAN CREEK NATIONAL
MONUMENT ACT”—PART 2**

**Tuesday, January 30, 2018
U.S. House of Representatives
Subcommittee on Federal Lands
Committee on Natural Resources
Washington, DC**

The Subcommittee met, pursuant to notice, at 10:34 a.m., in room 1324, Longworth House Office Building, Hon. Rob Bishop [Chairman of the Committee] presiding.

Present: Representatives Bishop, Thompson, Tipton, Gianforte; Hanabusa, Tsongas, Lowenthal, Gallego, McEachin, Gomez, and Grijalva.

Also present: Representative Curtis.

Mr. BISHOP. The Subcommittee on Federal Lands will come to order. This Subcommittee is reconvened at the request of the Minority in accordance with Rule 11, to further consider the Shash Jáa National Monument and Indian Creek National Monument Act that is introduced by Representative Curtis and co-sponsored by the entire Utah delegation.

Mr. Curtis, I appreciate you being with us here today. Nothing is official yet, but we have requested that you actually eventually join this Committee, because we are down one member. I hope that actually happens and I hope this is the beginning of something that is going to be very permanent.

Mr. McClintock is the Chairman of this Subcommittee, and he was kind enough to get sick. He is home, back in California, so I have been temporarily empowered—actually, Mr. McClintock is sick, and Mr. LaHood was the Vice Chairman, who is no longer on the Committee—so I have been demoted to going backwards. I was Chairman, I used to be both the Chairman of this Subcommittee and the Ranking Member. Now I am officially the Vice Chairman of this Committee. Thank you.

[Applause and laughter.]

Mr. BISHOP. The options are just never-ending.

With that, I appreciate the witnesses who have taken the time to be here. I appreciate you appearing before the Committee. Thank you for the written testimony that you have sent to us. That will be part of the record.

Because of the number of witnesses that are here, we have reserved the first row. There will be one seat at the table. We will call you up one at a time to give your oral testimony to us.

For those who are new to the Committee—and I know many of you have been here before—the microphone in front of you, you are going to have to turn it on. The timer is there. You have your written testimony, and anything you would like to add afterwards will obviously be included in the record.

The oral testimony is going to be limited to just 5 minutes. With the number of witnesses we have, that is going to be a significant chunk of time, anyway. So, please watch the clock that is ahead of you. If the green light is on, you have plenty of time. When it hits 1 minute left, that is yellow. And, like in a traffic light, that is when you speed up so that you can quit when it is red.

And because we have a number of people to go through, I will try to be fair and arbitrary when I gavel you down. I apologize. I will let you complete a sentence, as long as it is not a run-on.

With that, let me first welcome to the witness table the Honorable Jason Chaffetz. You look really familiar. I am not quite sure why. But we appreciate you coming back here again.

Mr. Chaffetz used to be the Representative of this particular area. Thank you for coming here and presenting your testimony.

When he is done, he will take a seat back there and then we will call the next witness up to that particular spot. Questions will be done after all of you have had the chance to speak.

I will also give one caveat, Mr. Chaffetz is also working here today.

So, at any time, if you actually have to leave, we understand, we appreciate you generously giving your time already. Thank you for that. And it is good to have you back here in this Committee room again.

So, Jason, you have 5 minutes, it is all yours.

**STATEMENT OF THE HON. JASON CHAFFETZ, FORMER
MEMBER OF CONGRESS, UTAH'S 3RD DISTRICT, ALPINE, UTAH**

Mr. CHAFFETZ. Mr. Chairman, Ranking Member, and members of the Committee, thank you for inviting me to testify on behalf of H.R. 4532, introduced by the second-best Congressman to serve from Utah's 3rd Congressional District in the 115th Congress, Representative Curtis.

As you know, I previously sat on the Committee, as I was honored to serve in the House of Representatives for 8½ years in Utah's 3rd Congressional District. Having represented many parts of Utah, I am intimately familiar with the land, the people, and the issues.

I live in Utah, I care about Utah. My wife and I raised our children in Utah, and we intend to continue to live in Utah throughout our lives. We enjoy the scenic outdoors, and regularly take advantage of access we have to amazing land that is just a short drive from our home. We enjoy all four vivacious seasons, and want nothing more than continued access and preservation of the beauty in this very unique part of the world.

Unlike most states in our Union, nearly 70 percent of the state of Utah is owned by the Federal and state government. It puts tremendous pressure on local communities, of which I am keenly aware. Most dramatically, it affects the way we are able to educate our children.

In San Juan County, for instance, only 8 percent of the county is private property. It is this private property that generates property taxes to educate our children. This affects all the residents of San Juan County, especially the children of the Navajo Nation.

Personally, I have fought to improve the Federal commitment to our schools, fighting for and securing an increase in appropriations for rural school bus routes. And many of you on this Committee supported this effort on both sides of the aisle. Again, I thank you for the much-needed support on those rural school bus routes.

Another major burden for the county government is the emergency services needed to support such a massive amount of land. In the case of San Juan County, they are expected to provide first responder services on the Federal land with no reimbursement by the Federal Government. With the millions of acres in play, you could see how the search and rescue services can put a massive financial burden on such a small county budget. And, oh, by the way, San Juan County is roughly the size of New Jersey. It is big, it is expansive, it is beautiful, and it is remote.

The financial burdens for the counties is exacerbated by the uneven and inconsistent funding of PILT, payment in lieu of taxes, but we will have to tackle that subject another time.

The legislation before you today does not convert any public land to private property. It does not solve the funding problems and challenges. But it does address a challenge long identified by Chairman Bishop and keenly recognized by Representative Curtis.

I will be submitting for the record a couple of letters. One is a letter dated February 22, 2013. And rather than read that, I will just submit it into the record. But it was essentially an invitation by Chairman Bishop to involve and engage the local communities in this dialogue on how to deal with our Federal lands.

Through the years, Rob Bishop and I, along with others with very capable staff, conducted literally 1,200 meetings at every level you can possibly imagine. Yes, 1,200. Our goal was to achieve certainty for the local communities and state, move beyond perpetual lawsuits, and maximize local input from a broad cross-section of stakeholders. We called this approach the Public Lands Initiative, or PLI.

There are 29 counties in Utah, but we limited the scope of our work to 7 contiguous counties in southeastern Utah, and we worked with every possible stakeholder. This effort included my flying with San Juan County Commissioner Rebecca Benally to Flagstaff, Arizona on August 18, 2015, to meet with the Navajo Nation President Begaye, and to talk about our Public Lands Initiative for Utah.

I brought up the so-called Bears Ears Monument. The president had never heard of Bears Ears, nor did he have any idea where it was located. His concern then was about access for local Navajos, access that was not found within the monument designation. We were convinced then, and I am convinced today, that stakeholders identified in the bill before you today maximizes input, allows for broad discussion, makes the process transparent, and will give the public confidence in its outcomes. The areas identified in the legislation include no reservation lands.

I believe the bill put forward by Congressman Curtis is fair, inclusive, and it is necessary. I appreciate the work he has already invested in this important subject.

This new legislative effort puts all of us in the best possible position to ensure the area is managed in a way that truly takes into account perspectives of national and local tribes, multiple stakeholders, and the interests of Utahans.

This corner of the world is one of the most beautiful on Earth, and I hope some day you are able to visit it. The culture of these public lands is rich in history, and I am sure you will come to love the lands as our family has. It is vital that we get the structure and management right, and the approach by Representative Curtis, I believe, is the right way to do this.

I thank the Committee for its consideration, and note that I ended with 1 second to go.

[The prepared statement of Mr. Chaffetz follows:]

PREPARED STATEMENT OF JASON CHAFFETZ, A FORMER REPRESENTATIVE IN
CONGRESS FROM THE STATE OF UTAH

Chairman, Ranking Member, and members of the Committee, thank you for inviting me to testify today regarding H.R. 4532 introduced by the second best Congressman to serve from Utah's 3rd Congressional District in the 115th Congress.

As you know, I previously sat on this Committee as I was honored to serve in the U.S. House of Representatives for 8½ years serving Utah's 3rd Congressional District. Having represented many parts of Utah, I am intimately familiar with the land, the people, and the issues.

I live in Utah. I care about Utah. My wife and I raised our children in Utah, and we intend to continue to live in Utah throughout our lives. We enjoy the scenic outdoors and regularly take advantage of the access we have within a short drive of our home. We enjoy all four vivacious seasons and want nothing more than continued access and preservation of this beauty in a very unique part of our world.

Unlike most states in our Union, nearly 70 percent of the state of Utah is owned by the Federal and state government. This puts tremendous pressure on local communities.

Most dramatically it affects the way we are able to educate our children. In San Juan County, for instance, only 8 percent of the county is private property. It is this private property that generates property taxes to educate our children. This affects all the residents in San Juan County, especially the children of the Navajo Nation.

Personally, I have fought to improve the Federal commitment to our schools, fighting for and securing an increase in appropriations for rural school bus routes. Many of you on this Committee supported this effort, and I again thank you for the much needed support.

Another major burden for county government is the emergency services needed to support such a massive amount of land. In the case of San Juan County they are expected to provide first responder services on the Federal land with no reimbursement by the Federal Government. With millions of acres in play, you can see how search and rescue services can put a massive financial burden on a small county budget.

Oh, by the way, San Juan County is nearly the size of New Jersey. It is big, expansive and beautiful.

The financial burdens for the counties is exasperated by uneven and inconsistent funding of PILT (Payment In Lieu of Taxes), but we will have to tackle this subject another time.

The legislation before you today does not convert any public land to private property. It does not solve the funding problems and challenges, but it does address a challenge long identified by Chairman Bishop and keenly recognized by Representative Curtis.

I will be submitting to the record two letters from Chairman Bishop dated February 22, 2013. Here is part of what he wrote to local tribal leaders:

"After observing and participating in the public lands debate for many years, I believe we are in the midst of a paradigm shift. There is a growing consensus that a more reasonable, balanced use of the public lands can be achieved in Utah.

Through conversations with county and state officials, tribal leaders, conservation groups, industry, non-government organizations, and the public. I believe Utah is ready to move away from the tired arguments of the past. We have a unique window of opportunity to end the gridlock and bring resolution to some of the most challenging land disputes in the state.

In order to strike an appropriate balance between conservation and responsible development and use, and to create greater certainty for the citizens of Utah and Indian Country, I am pleased to announce that I am initiating a process to develop Federal legislation that seeks to address many of the issues that have planned public land management in eastern Utah.”

Through the years Rob Bishop and I, along with very capable staff, conducted more than 1,200 meetings. Yes, 1,200. Our goal was to achieve certainty for the local communities and state, move beyond perpetual lawsuits, and maximize local input from the broad cross-section of stakeholders. We called our approach the Public Lands Initiative or PLI.

There are 29 counties in Utah but we limited the scope of our work to 7 continuous counties in southeastern Utah. We worked with every possible stakeholder. This effort included my flying with San Juan County Commissioner Rebecca Benally to Flagstaff, Arizona on August 18, 2015 to meet with Navajo Nation President Begaye to talk about our Public Lands Initiative for Utah. I brought up the so-called “Bears Ears” monument. President Begaye had never heard of Bears Ears nor did he have any idea where it was located. His concern then was about access for local Navajos—access that is not found with a monument designation.

We were convinced then, and I am convinced today, the stakeholders identified in the bill before you today maximizes input, allows for a broad discussion, makes the process transparent, and will give the public confidence in its outcomes. The areas identified in the legislation include no reservation lands.

I believe the bill put forward by Congressman Curtis is fair, inclusive, and necessary. I appreciate the work he has already been invested into this important subject. This new legislative effort puts all of us in the best possible position to ensure this area is managed in a way that truly takes into account the perspectives of national and local tribes, multiple stakeholders, and the interests of Utahns.

This corner of the world is one of the most beautiful on Earth. I hope someday you are able to visit. The culture of these public lands is rich in history, and I am sure you will come to love these lands as our family has. It is vital we get the structure of management right, and the approach by Rep. Curtis is the right way to do this.

I thank the Committee for its consideration and I would be happy to answer any questions.

Mr. BISHOP. You timed that wonderfully. Thank you, Congressman. I appreciate it, and it is good to have you back here again. Thank you very much.

All right, he can go back on the first row. We will call up Ms. Lopez-Whiteskunk, who is a former Councilwoman of the Ute Tribe, and also a former Co-Chair of the Tribal Coalition.

And you have been here before. We welcome you back again. You know the drill. You are recognized for 5 minutes.

STATEMENT OF REGINA LOPEZ-WHITESKUNK, FORMER UTE MOUNTAIN TRIBE COUNCILWOMAN, FORMER BEARS EARS INTER-TRIBAL COALITION CO-CHAIR, UTE MOUNTAIN UTE TRIBAL COUNCIL, TOWAOC, COLORADO

Ms. LOPEZ-WHITESKUNK. Chairman, 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 Regina Lopez-Whiteskunk. I am a former Councilwoman for the Ute Mountain Ute Tribe, and a former Co-Chair of the Bears Ears Inter-Tribal

Coalition. I am duly authorized and appointed by official resolution to speak on behalf of the Ute Mountain Ute Tribe.

The Ute Mountain Ute Tribe is a federally recognized Indian tribe with reservation lands in Utah, New Mexico, and Colorado. Tribal lands in Utah include the White Mesa community and various trust allotment lands along Allen Canyon.

Bordering these tribal lands are the ancestral homelands of the Ute Mountain Ute Tribe that extend far into the Bears Ears region. Traces of our ancestors remain in these sacred spaces, and deserve protection from looting, off-road vehicles, and ongoing efforts to expand uranium mining.

Protection for thousands of cultural and natural resources is warranted and one of many reasons why the Ute Mountain Ute Tribe, along with the Hopi Tribe, Navajo Nation, Ute Indian Tribe, and Pueblo of Zuni, have joined in forming the Bears Ears Inter-Tribal Coalition.

The Ute Mountain Ute Tribe is concerned about uranium mining within and near the Bears Ears region, which poses particular threats causing concern for the health and well-being of tribal members, water and air resources, plants and wildlife, and other natural and cultural resources. We, therefore, sought and achieved protection of the Bears Ears landscape, including the withdrawal of future mineral leasing and entry under the mining laws, through a national monument designation, as afforded by Presidential Proclamation 9558.

Each Indian nation knows well that mere consultation, as provided by the National Historic Preservation Act, National Environmental Policy Act, Archeological Resource Protection Act, and numerous other Federal laws, are inadequate for managing the cultural landscape and protecting our ancestors. We, therefore, sought collaborative management of the national monument by crafting the Bears Ears Commission.

We were successful in acquiring what we strived for. Each tribe, as sovereign entities, appropriately had the opportunity to designate an official of their choosing to sit on the Bears Ears Commission to provide traditional knowledge and expertise on how to best manage the lands. This was respectful of tribal sovereignty.

Introduced in tandem with Presidential Proclamation 9681, H.R. 4532 legislatively confirms President Trump's improper reduction of the Bears Ears National Monument boundaries by 85 percent. The Ute Mountain Ute Tribe was not consulted in the drafting of H.R. 4532, nor was the Ute Mountain Ute Tribe afforded an opportunity to testify at the January 9, 2018 hearing on H.R. 4532.

Instead of allowing testimony from each sovereign tribal government comprising the Bears Ears Inter-Tribal Coalition, an individual tribal member that supported the views of the Utah delegation was hand-picked, to give the impression that local tribes support the bill. That display is actually far from the truth. The Ute Mountain Ute Tribe adamantly opposes H.R. 4532.

Among numerous reasons, the Ute Mountain Ute Tribe opposes H.R. 4532, especially with the conception of the tribal management council. Nothing about the tribal management council would reflect the needs, interest, and expertise of the federally recognized Indian

tribes holding close cultural ties to the Bears Ears landscape. In place of officials duly appointed by Indian nations, the tribal management council would consist of Federal and state officials and hand-picked individual tribal members.

The Ute Mountain Ute Tribe would be precluded from designating an official or tribal leader, or a knowledgeable practitioner of the Ute Mountain Ute customs and culture of its own choosing. Rather, the task of appointing the individual Ute Mountain Ute tribal member to serve on the tribal management council would fall on the President after consultation with the congressional delegation from the state of Utah. Such legislation prevents the Ute Mountain Ute Tribe and other Indian nations to self-determine their own destinies, and amounts to the failed Federal Indian policies of the 1800s.

The Ute Mountain Ute Tribe opposes H.R. 4532.

Thank you for your consideration of our testimony. The Ute Mountain Ute Tribe is especially appreciative to the Democratic members of the Committee in providing this opportunity for us to state our position. Thank you.

[The prepared statement of Ms. Lopez-Whiteskunk follows:]

PREPARED STATEMENT OF REGINA LOPEZ-WHITESKUNK, UTE MOUNTAIN UTE TRIBE

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 Regina Lopez-Whiteskunk. I am a former councilwoman for the Ute Mountain Ute Tribe and the former co-chair of the Bears Ears Inter-Tribal Coalition. I am duly authorized and appointed by official tribal resolution to speak on behalf of the Ute Mountain Ute Tribe.

The Ute Mountain Ute Tribe is a federally-recognized Indian tribe with reservation lands in Utah, New Mexico, and Colorado. Tribal lands in Utah include the White Mesa community and various trust allotment lands along Allen Canyon. Bordering these tribal lands are the ancestral homelands of the Ute Mountain Ute Tribe that extends far into the Bears Ears region. Historically, during the winter months various bands of Utes would descend from the mountains into the warmer regions of the Bears Ears landscape. Traces of our ancestors remain in those sacred spaces and are deserving of protection from looting, off-road vehicle use, and ongoing efforts to expand uranium mining.

Protection for the thousands of cultural and natural resources is warranted and one of many reasons why the Ute Mountain Ute Tribe, along with the Hopi Tribe, Navajo Nation, Ute Indian Tribe, and the Pueblo of Zuni, joined in forming the Bears Ears Inter-Tribal Coalition. For the Ute Mountain Ute Tribe, uranium mining within or near the Bears Ears region poses a unique and particular threat, causing concern for the health and well-being of tribal members, water and air resources, plants, wildlife, and other natural and cultural resources. We, therefore, sought and achieved protection of the Bear Ears landscape, including the withdrawal of future mineral leasing and entry under the mining laws, through a national monument designation, as afforded by Presidential Proclamation 9558.

Each Indian nation knowing well that mere consultation, as provided by the National Historic Preservation Act, National Environmental Policy Act, Archeological Resources Protection Act and numerous other Federal laws, was inadequate for managing the cultural landscape and protecting our ancestors, we therefore sought collaborative management of the national monument by crafting the Bears Ears Commission. Through countless meetings between the tribes and numerous trips to meet with Federal staff, we labored meticulously in arranging for how the Bears Ears Commission would contribute to managing the monument. We were successful in acquiring what we strived toward. Each tribe, as sovereign entities, appropriately had the opportunity to designate an official of their choosing to sit on the Bears Ears Commission to provide traditional knowledge and expertise on how to best manage the lands.

Despite the Bears Ears Commission's efforts to effectively structure and govern its activities, including hiring staff, creating by-laws and developing working relationships with Federal staff, accomplishments were disrupted by the President's unlawful action in purporting to modify the Bears Ears National Monument by instituting Presidential Proclamation 9681. Consequently, the Ute Mountain Ute Tribe, along with other Indian nations, is engaged in active litigation to justly restore protections to over 1 million acres of our ancestral homelands.

Introduced in tandem with Presidential Proclamation 9681, H.R. 4532 legislatively confirms President Trump's improper reduction of the Bears Ears National Monument boundaries by 85 percent. The Ute Mountain Ute Tribe was not consulted in the drafting of H.R. 4532, nor was the Ute Mountain Ute Tribe afforded an opportunity to testify at the January 9, 2018, hearing on H.R. 4532. Instead of allowing testimony from each of the sovereign tribal governments comprising the Bears Ears Inter-Tribal Coalition, an individual tribal member that supported the views of the Utah delegation was handpicked to give the impression that "local tribes" support the bill. That display is actually far from the truth. The Ute Mountain Ute Tribe vehemently opposes H.R. 4532.

Among the numerous reasons the Ute Mountain Ute Tribe opposes H.R. 4532, we are especially concerned with the conception of the Tribal Management Council. Nothing about the Tribal Management Council would reflect the needs, interests, and expertise of the federally-recognized Indian tribes holding close cultural ties to the Bears Ears landscape. In place of officials duly appointed by Indian nations, the "Tribal" Management Council would consist of Federal and state officials, and handpicked individual tribal members. The Ute Mountain Ute Tribe would be precluded from designating an official, or a traditional leader, or a knowledgeable practitioner of Ute Mountain Ute customs and culture, of its own choosing. Rather, the task of appointing an individual Ute Mountain Ute tribal member to serve on the Tribal Management Council would fall on the President, after "consultation with the congressional delegation from the state of Utah." Such legislation prevents the Ute Mountain Ute Tribe and other Indian nations to self-determine their own destinies and amounts to an egregious return to the failed Federal Indian policies of the 1800s.

Under H.R. 4532, the duties of the Bears Ears Commission, along with "affected Indian tribes" that are excluded from participation on the Tribal Management Council, would be merely advisory to Federal and state interests. Instead of the Bears Ears Commissioners working with the Secretary of the Interior and the Secretary of Agriculture "on the development and implementation of management plans and on management of the monument," as prescribed in Presidential Proclamation 9558, the Bears Ears Commission, under H.R. 4532, would inappropriately have to engage with state interests, namely San Juan County Commissioners, in regards to tribal concerns and expertise on managing Federal lands. This arrangement runs afoul of the unique legal and political relationship between Indian nations and the Federal Government.

Contrary to statements by Utah Representative John Curtis that his bill empowers tribes, H.R. 4532 does the opposite. We cannot stress the importance of affording Indian nations the opportunity to collaboratively manage the lands where our ancestors rest and where ceremonies are conducted. H.R. 4532 would effectively deprive Indian nations of that opportunity by vesting that authority with a management council that specifically lacks involvement of tribal officials duly appointed by their respective sovereign tribal governments. H.R. 4532 would also remove protections for over 1 million acres of the Bears Ears cultural landscape. The Ute Mountain Ute Tribe cannot support a bill that would legislatively confirm the President's unlawful action. Accordingly, the Ute Mountain Ute Tribe opposes H.R. 4532.

Thank you for your consideration of our testimony. The Ute Mountain Ute Tribe is especially appreciative of the Democratic members of the Committee in providing this opportunity to state our position.

Mr. BISHOP. Thank you. I appreciate that.

Jason, she beat you, she had 4 seconds remaining.

Next, we have Tony Small, the Vice Chairman of the Ute Business Committee.

Tony, glad to have you here. You are recognized for 5 minutes.

STATEMENT OF TONY SMALL, VICE CHAIRMAN, UTE BUSINESS COMMITTEE, UTE INDIAN TRIBE, FORT DUCHESNE, UTAH

Mr. SMALL. Members of the Subcommittee, thank you for the opportunity to testify on H.R. 4532. I am Vice Chairman of the Ute Tribal Business Committee. With me is Business Committee member Ed Secakuku.

The Ute Indian Tribe is a federally recognized tribe. Our ancestral lands include the Bears Ears region. We became a member of the Bears Ears Inter-Tribal Coalition to promote our cultural and sacred resources with Bears Ears National Monument.

The Ute Tribe strongly opposes H.R. 4532, the bill that approves Trump's unlawful action attempting to reduce the monument by 85 percent.

The bill also eliminates our role in the management of the monument, while promoting the State of Utah and San Juan County Board of Commissioners.

We are thankful to the Subcommittee's Democratic members for requesting the second hearing on the bill. At the last hearing, all five tribes were forced onto one seat. The tribes are committed to working together, but it is important for the Subcommittee to hear from each sovereign tribal government.

At the last hearing, Utah had three witnesses and is well represented again. The focus of these hearings on Utah's state and county governments, Utah private citizens, and Utah lobbying groups makes clear that the purpose of the bill is to eliminate tribes in the protection of Bears Ears and its sacred, priceless resources. We support and adopt the testimony provided by the Inter-Tribal Coalition at the last hearing. The testimony opposed the bill and described its many problems.

At today's hearing, we need to address the untrue and misleading statements being made by supporters of the bill.

First, the local tribes, which are the five tribes here today, oppose the bill. Any suggestion otherwise is not true. In a recent *Salt Lake Tribune* article, Congressman Curtis falsely claimed the local tribes support the bill. This is not true. He cherry-picked individual tribal members for their support of the bill. These are private citizens and do not represent the federally recognized tribal government of the real local tribes.

Even worse than being untrue, his actions attempt to disrupt and undermine our tribal government. His actions make no sense, given the U.S. policy of tribal self-determination. This is an attack on our sovereignty, and violates the U.S. treaty trust, and government-to-government relationship with Indian tribes. How would you like it if Russia or France went around the U.S. Government to negotiate with private citizens?

[Slide.]

Mr. SMALL. As you can see on the map, we have a long-standing legal connection to the Bears Ears region. The pink area in the southeast corner of the map to the north of San Juan River is Royce Map 515, and includes Bears Ears. This is one of the Royce maps published by the United States in 1899 to show tribal treaty and ancestral lands. The United States recognized that Royce Map 515 includes our treaty and ancestral lands.

Second, Congressman Curtis falsely claimed that his management council empowers the tribes. His so-called management council does not even include the Ute Indian Tribe. Cutting us from the management council is not empowering.

Third, Congressman Curtis claimed that his bill does not affect the Bears Ears Commission. This is also misleading. Instead of being a primary land manager, the Commission is buried under the management council. The bill also limits the Commission to an area that is only 10 percent of the original monument.

Finally, at the last hearing, Chairman Bishop used the photo for the Ute Tribe bulletin newspaper to claim that he met with us to discuss the bill and Bears Ears. This is also not true. The date of the bulletin in his photo was July 17, 2015. This was more than 2 years before the bill was introduced and more than 2 years before Trump unlawfully rescinded the monument. In 2015, we met Chairman Bishop to discuss Utah's PLI initiative. At that time, we were focused on his proposal to take 100,000 acres of our tribal lands and give them to the state. We did not discuss any proposal for Bears Ears.

In addition to countless archeological resources, the Bears Ears National Monument was intended to honor tribal voices, cultures, and sacred sites. The monument promoted well-being in our tribal communities, southeastern Utah, and the United States. This bill attacks those purposes and diminishes our voices, attacks our governments, and leaves our sacred and cultural sites unprotected.

The Ute Indian Tribe opposes H.R. 4532, and I ask the Subcommittee to take up H.R. 4518, which would expand the monument to all these areas needing protection. Thank you.

[The prepared statement of Mr. Small follows:]

PREPARED STATEMENT OF TONY SMALL, UTE INDIAN TRIBE OF THE UINTAH AND
OURAY RESERVATION

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 Tony Small. I am elected member of the Ute Indian Tribe's Business Committee and serve as Vice Chairman of the Business Committee.

The Ute Indian Tribe is a federally recognized tribe. Our 4.5 million-acre Uintah and Ouray Reservation is in northeastern Utah. Our ancestral lands, cultural resources and sacred sites extend into central and southern Utah and western Colorado. We became a member of the Bears Ears Inter-Tribal Coalition (Coalition) to help protect these lands and resources through the establishment of the Bears Ears National Monument.

The Bears Ears Inter-Tribal Coalition includes: the Ute Indian Tribe, the Navajo Nation, the Ute Mountain Ute Tribe, the Pueblo of Zuni, and the Hopi Tribe. The Coalition worked with Utah Diné Bikéyah, a grassroots tribal organization, for nearly a decade for the designation of the Bears Ears National Monument and the protection of its sacred and priceless cultural and natural resources. We proposed that a 1.9 million acre monument be established.

Ultimately, a 1.35 million acre Bears Ears National Monument was designated by President Obama on December 28, 2016 through Presidential Proclamation No. 9558. However, on December 4, 2017, President Trump issued Presidential Proclamation No. 9681 unlawfully revoking and dismantling the Monument and replacing it with two new monuments. These two monuments include about 201,397 acres. This is an 85 percent reduction that leaves hundreds of thousands of priceless and significant cultural, natural, and sacred objects and resources unprotected.

The Ute Indian Tribe remains adamantly opposed to H.R. 4532 which would legislatively confirm President Trump's unlawful action. We first testified on

H.R. 4532 as a part of the Coalition at a Subcommittee hearing on January 9, 2018. As noted at that hearing, H.R. 4532 would also diminish tribal voices in the management of these cultural and natural resources while promoting the voices of Federal agencies, the state of Utah and the San Juan County Board of Commissioners. Most important, H.R. 4532 attempts to take a monument designated to protect and preserve tribal cultural and natural resources and turn it into a multi-use area for uranium mining, increased motorized vehicles, and increased grazing that would damage these sensitive resources.

We appreciate the efforts of the Subcommittee's Democratic Members to seek this second hearing on H.R. 4532 to provide an opportunity for all five of the Coalition tribes to testify. The Coalition represents a historic gathering of our tribal nations in support of the significant and priceless resources making up the Bears Ears National Monument. While we are committed to working together, it is important for the Subcommittee to hear and understand the views of the five independent and sovereign tribes making up the Coalition.

At the January 9, 2018 hearing on H.R. 4532, the five tribes were forced onto one witness seat while every level of the state of Utah was represented, including: the Utah state government, a Utah private citizen and a Utah lobbying group. At today's hearing the state of Utah is well represented again, including Utah's San Juan County Commissioners and another opportunity for the Utah state government. The focus of these hearings on the state of Utah, its government subdivisions, its private citizens and its lobbying groups are a clear indication of the purpose of H.R. 4532—to eliminate tribal voices in the protection of Bears Ears National Monument and its sacred and priceless resources.

The Bears Ears Inter-Tribal Coalition's January 9, 2018 testimony provided a thoughtful and well-reasoned discussion of the problems with H.R. 4532 and why the Subcommittee or Committee should not approve the bill. The Ute Indian Tribe incorporates and adopts that testimony here. In the reminder of our testimony, we will address issues that have arisen since the first hearing.

CLAIMS THAT H.R. 4532 EMPOWERS LOCAL TRIBES ARE MISLEADING AND FALSE

Chairman Bishop and Congressman Curtis as well as other supporters of H.R. 4532 continually make misleading and false claims that they are supporting "local tribes" or empowering the voices of "local tribes." Congressman Curtis most recently made these claims in a January 20, 2018 *Salt Lake Tribune* opinion piece. Nothing could be further from the truth. This distortion of the Federal Government's treaty, trust, and government-to-government relationship with Indian tribes is offensive and damaging.

The "local tribes" Chairman Bishop and Congressman Curtis are referring to are individual tribal members cherry-picked by the Congressmen for their support of H.R. 4532. These "local tribes" are simply private citizens expressing their opinion. They do not represent the views of federally recognized tribal governments—including the Ute Indian Tribe and the other Coalition tribes.

Even worse, Chairman Bishop and Congressman Curtis' actions are an attempt to disrupt and undermine our tribal governments by negotiating with individual tribal members. This is an attack on our sovereignty, conflicts with the United States' policy of tribal self-determination, and violates the Federal Government's treaty, trust, and government-to-government relationship with federally recognized tribes. This is an inappropriate return to the failed policies of the 1800s when the United States would divide tribes and pursue its own objectives by designating for itself which tribal representatives the United States would negotiate. These short-sided and damaging actions stand in the way of progress that benefits Bears Ears, the region, and the state of Utah. We would expect the full Congress to reject these actions and the bill.

During the January 9, 2018 hearing, Chairman Bishop also falsely claimed that a photo from our Ute Bulletin newspaper proved that he had met with us to discuss H.R. 4532 or more generally the Bears Ears National Monument. The date of the Ute Bulletin shown in his photo was July 17, 2015. This was more than 2 years before H.R. 4532 was introduced and more than 2 years before President Trump unlawfully rescinded and dismantled the Monument.

On July 17, 2015, Chairman Bishop met with a few members of the Ute Indian Tribe's Business Committee, not a quorum, to discuss his Utah Public Lands Initiative, not H.R. 4532. While the Public Lands Initiative included a proposal for Bears Ears, the July 2015 meeting focused on our proposal for trust restoration of lands within our Uncompahgre Reservation. Restoration of these lands to trust status would provide for local decision making and increased energy development in a proven oil field. Unfortunately, Chairman Bishop did not include our proposal in

his Public Lands Initiative bill and instead used the bill to seek the first Indian land grab in more than 100 years. The meeting did not include any discussion of H.R. 4532 or legislative proposals for Bears Ears.

Let us be clear, Chairman Bishop and Congressman Curtis never contacted the Ute Indian Tribe's Business Committee, the tribe's governing body, 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. Claiming that they are promoting the voices of "local tribes" is a disgrace. It is up to sovereign tribal governments, not the United States, to select our own representatives.

THE UTE INDIAN TRIBE AND THE BEARS EARS INTER-TRIBAL COALITION ARE THE LOCAL TRIBES

During the January 9, 2018 hearing, Chairman Bishop sharply questioned whether the Ute Indian Tribe and the Bears Ears Inter-Tribal Coalition had a strong and ongoing relationship to the lands and resources contained within the Bears Ears National Monument. Chairman Bishop's line of questioning misunderstands our long-lasting and vital connection to these lands. Our Uintah and Ouray Reservation is in northeastern Utah, but we have lived, worked, and prayed in the area around Bears Ears for all time. Today we maintain strong cultural connections to Bears Ears and its surrounding lands including ongoing uses.

Our connection and legal standing to the lands and resources in the area around Bears Ears was long recognized by the Federal Government even before the Bears Ears National Monument was designated. In 1899, the Government Printing Office published a schedule of Indian land cessions by Charles C. Royce including 67 maps outlining those land cessions as the second part of the two-part 18th Annual Report of the Bureau of American Ethnology—1896–1897, Vol. II. Part 2 was also printed as House Document No. 736 of the U.S. Serial Set, 56th Congress, 1st Session. This report was part of a series of annual reports on Native American issues produced by the U.S. Bureau of American Ethnology for the Smithsonian Institution.

Today, the Department of the Interior and other Federal agencies use these "Royce Maps" to legally determine which tribes will be contacted when a site is discovered under the Native American Graves Protection and Repatriation Act (NAGPRA) and for government-to-government consultation on Federal actions that may impact Indian resources. The Royce Map for the state of Utah is attached to our testimony as Exhibit A. Bears Ears and its surrounding lands and resources is located in the southeast corner of this map, to the north of the San Juan River, and included within Royce Map 515. Royce and Interior's National NAGPRA Program identify Royce Map 515 as including the ancestral lands of the Ute Indian Tribe and a number of other tribes.

The Bears Ears National Monument was designated, in part, to celebrate and protect our lasting connections and ongoing uses to the lands and resources around Bears Ears. Bears Ears includes our ancestral homelands, resources, and spiritual sites that are as important to our culture and identity as they ever were. These are both legal and cultural connections. The Ute Indian Tribe and the tribes making up the Bears Ears Inter-Tribal Coalition are the local tribes. In designating the Bears Ears National Monument, President Obama recognized this truth.

THE SHASH JÁA TRIBAL MANAGEMENT COUNCIL DOES NOT PROMOTE TRIBAL MANAGEMENT

We were shocked by the name of Shash Jáa Tribal Management Council. Despite Congressman Curtis' claims in his January 20, 2018 opinion piece, nothing about this Council reflects actual tribal management. First, the Council does not include the Ute Indian Tribe. Instead, only two of the five tribes making up the Bears Ears Inter-Tribal Coalition are represented on the Council. Second, the Council consists of three representatives who are not required to have any ties to tribal governments. Third, 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. Fourth, the Council is required to consult with state and local governments, and the public, but is not required to consult with the tribes who hold these lands sacred.

Finally, the most troubling aspect of this "tribal management council," is that H.R. 4532 attempts to improperly predetermine 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, again, an inappropriate return to the failed policies of the 1800s 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.

Curtis also claimed that the original Bears Ears Commission is left intact in his bill. However, H.R. 4532 would bury the Commission under his so-called “tribal” management council that is dominated by Federal and state interests. H.R. 4532 would limit and drown out the voice of the Bears Ears Commission.

All of these provisions attempt to treat Indian tribes as merely public stakeholders, 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.

URANIUM MINING, MOTORIZED VEHICLE USE, AND INCREASED GRAZING WOULD DAMAGE CULTURAL AND NATURAL RESOURCES

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 increased 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 which only protects a very small portion of the cultural and sacred resources in the area.

Preventing and addressing these impacts were the primary reason that the Ute Indian Tribe and the Coalition 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.

THERE IS NO SCIENTIFIC OR REASONABLE BASIS FOR ELIMINATING MONUMENT PROTECTIONS

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. 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.

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 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. 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.

INDIAN RESERVATIONS MUST BE EXCLUDED FROM STATE LAND EXCHANGES

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.

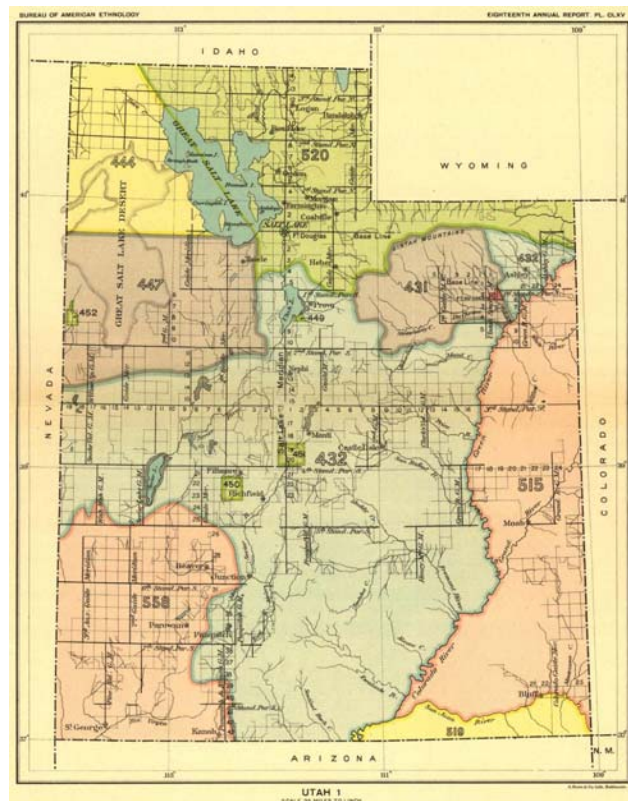
Our cultural, natural, and sacred resources within our Indian reservations are just as important as the resources within the Bears Ears National Monument. Our reservation lands were reserved in treaties and other agreements to provide a homeland for our tribes. In another return to the failed policies of the 1800s, 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 Ute Indian Tribe 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. Instead, the Subcommittee should 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 A



Mr. BISHOP. Thank you.

Next, we will call up Mr. Carleton Bowekaty—and you are going to have to help me if I don't put the right emphasis there—Councilman in the Pueblo of the Zuni Nation from New Mexico. Was I even close to the pronunciation of your name?

Mr. BOWEKATY. Chairman—Vice Chairman, it is Bowekaty.

Mr. BISHOP. I wasn't even in the same zip code. I apologize.

Mr. BOWEKATY. I was in the military. I have heard all variations of my last name.

[Laughter.]

Mr. BISHOP. All right. Thank you for being here. You are also recognized for 5 minutes.

**STATEMENT OF CARLETON BOWEKATY, COUNCILMAN,
PUEBLO OF ZUNI, ZUNI, NEW MEXICO**

Mr. BOWEKATY. Thank you. Vice Chairman Bishop, Ranking Member Hanabusa, and respected members of the Subcommittee, I am Carleton Bowekaty, an elected member of the Zuni Tribal Council, and the Zuni Tribe's appointed representative on the Bears Ears Commission. On behalf of the Zuni Tribe, I want to thank you for holding this second hearing on H.R. 4532, and for inviting me to testify.

The Zuni Tribe has almost 13,000 members, the vast majority of which live on tribal lands in far western New Mexico. Our reservation contains 600,000 acres. However, our aboriginal lands, as well as those of our 18 sister pueblos in New Mexico, encompass a far greater area.

In addition to the lands that we aboriginally exercise control over, there are other lands that are part of our history and culture that even today play an integral role in our traditions and religious ceremonies. Bears Ears is one such area, and a very important one. It, along with neighboring Mesa Verde, is part of the Colorado plateau, the region where our ancestors lived before migrating southward into present-day New Mexico.

Zuni has been actively involved in the Bears Ears Inter-Tribal Coalition since its inception. It is a unique coalition, one that has remained focused on our mutual interest in ensuring that the remarkable cultural and natural resources found on these formerly tribal lands are protected and preserved. It was, therefore, entirely appropriate for the presidential proclamation creating the Bears Ears National Monument, referred to as the Obama proclamation, to have established a Bears Ears Commission with representation from each of the five tribes so that they can provide guidance and recommendations on the development and implementation of managed plans and on management of the monument.

In contrast to the Obama proclamation's respect for the tribes' historic and strong connections to Bears Ears and the balance it provides to ensure that other interested parties have a voice in management issues, H.R. 4532 contains what we view as a radical provision giving local politicians effective control of management and use decisions.

The Bears Ears lands, though once controlled and used exclusively by tribes in the Southwest, are now Federal lands owned by all Americans. So, while no disrespect is intended to our local government officials, most of whom work hard to better their

communities, we recently saw in Oregon and Nevada what happens when local residents think they should control Federal land for their own benefit in disregard of Federal laws.

I want to avoid repeating the testimony of the tribal leaders from the other four coalition tribes, but I do want this Subcommittee to know that we stand united, and that Zuni supports their substantive testimony.

We also know that the tribal witnesses here today are the duly designated representatives for the five tribes, unlike the handful of individuals who have been portrayed as representing one or more of the coalition tribes. Differences of opinion on major issues like this are inevitable. But let's be honest about our differences, and not misrepresent the issues, the positions of affected tribes, or those who speak for those tribes.

We are, of course, well aware of the fact that H.R. 4532 was introduced by Representative Curtis because not everyone agrees with the Obama proclamation designating the 1.35 million acres of Federal lands as the Bears Ears National Monument. But I encourage all to carefully read the Obama proclamation, as it presents a thorough, accurate, and compelling justification for the establishment of the monument, and provides a balanced approach for its future use and management.

The Zuni and the other tribes that are part of the Inter-Tribal Coalition had, frankly, hoped for the protection of a significantly larger area, 1.9 million acres, but accepted the reduced area as a reasonable compromise. However, we cannot support a further congressional reduction in the area of the monument, much less the drastic reduction proposed by H.R. 4532, nor can we support legislation that fails to adequately recognize the strong historical and cultural interest of tribes in the Bears Ears National Monument. Any legislation to modify the Bears Ears National Monument should not reduce its acreage or diminish the management and policy role of the Bears Ears Commission.

Zuni is not a wealthy tribe, and we don't come to Washington often. I am here today at the direction of our government and tribal council and at the tribe's sole expense. I am here because our people care enormously about the Bears Ears National Monument. I am standing united with the tribes represented before you today, along with our sister pueblos in New Mexico and throughout our country, to express our adamant opposition to executive or legislative efforts to abolish or reduce Bears Ears.

I also understand that the organization known as the Council of Governors, which includes governors from all 19 of the New Mexico Pueblos, will provide the Committee with a resolution that recently passed which supports the Bears Ears National Monument, opposes President Trump's proclamation purporting to rescind the Obama proclamation, and opposes H.R. 4532.

Finally, while the Zuni Tribe is appreciative of this opportunity to testify on H.R. 4532, we also respectfully urge Subcommittee members to schedule a hearing on a much different bill concerning Bears Ears, H.R. 4518.

Thank you for inviting me to testify, and for your consideration of my testimony on behalf of the people of Zuni. [Speaking Native language.]

[The prepared statement of Mr. Bowekaty follows:]

PREPARED STATEMENT OF CARLETON R. BOWEKATY, COUNCILMAN, ZUNI TRIBE OF
THE ZUNI INDIAN RESERVATION

Chairman McClintock, Ranking Member Hanabusa, and respected members of the Subcommittee, I am Carleton Bowekaty, an elected member of Zuni Tribal Council and the Zuni Tribe's appointed representative on the Bears Ears Commission. On behalf of the people of the Zuni Tribe, I want to thank you for holding this second hearing on H.R. 4532 and for inviting me to testify.

The Zuni Tribe has almost 13,000 members, the vast majority of which live on tribal lands in far western New Mexico. Our reservation contains 600,000 acres. However, our aboriginal lands, as well as those of our 18 sister Pueblos in New Mexico, encompass a far greater area. In addition to the lands that we aboriginally exercised control over, there are other lands that are part of our history and culture, and that even today play an integral role in our traditions and religious ceremonies. Bears Ears is one such area, and a very important one. It, along with neighboring Mesa Verde, is part of the Colorado Plateau, the region that our ancestors lived before migrating southward into present-day New Mexico.

THE BEARS EARS INTER-TRIBAL COALITION AND THE BEARS EARS NATIONAL MONUMENT
AND H.R. 4532

Zuni has been actively involved in the Bears Ears Inter-Tribal Coalition since its inception. It is a unique Coalition, one that has remained focused on our mutual interest in ensuring that the remarkable cultural and natural resources found on these formerly tribal lands are protected and preserved. It was therefore entirely appropriate for the presidential proclamation creating the Bears Ears National Monument (the "Obama Proclamation") to have established the Bears Ears Commission, with representation from each of the five tribes, so that they can "provide guidance and recommendations on the development and implementation of management plans and on management of the monument." In contrast to the Obama Proclamation's respect for the tribes' historic and strong connections to Bears Ears, and the balance it provides to ensure that other interested parties have a voice in management issues, H.R. 4532 contains what we view as a radical provision giving local politicians effective control of management and use decisions. The Bears Ears lands, though once controlled and used exclusively by tribes in the southwest, are now Federal lands, owned by all Americans. While no disrespect is intended toward local governmental officials, most of whom work hard to better their communities, we recently saw in Oregon and Nevada what happens when local residents think they should control Federal land for their own benefit in disregard of Federal laws.

I want to avoid repeating the testimony of the tribal leaders from the other four Coalition tribes, but I do want this Subcommittee to know that we stand united, and that Zuni supports their substantive testimony. We also note that the tribal witnesses here today are the duly designated representatives for the five tribes, unlike the handful of individuals who have been portrayed as representing one or more of the Coalition tribes. Differences of opinion on major issues like this are inevitable, but let's be honest about our differences and not misrepresent the issues, the positions of affected tribes, or who speaks for those tribes.

We are, of course, well aware of the fact that H.R. 4532 was introduced by Representative Curtis because not everyone agrees with the Obama Proclamation designating the 1.35 million acres of Federal lands as the Bears Ears National Monument. But I encourage all to carefully read the Obama Proclamation, as it presents a thorough, accurate, and compelling justification for the establishment of the Monument, and provides a balanced approach for its future use and management. Zuni and the other tribes that are a part of the Inter-Tribal Coalition had frankly hoped for the protection of a significantly larger area (1.9 million acres), but accepted the reduced area as a reasonable compromise. However, we cannot support a further congressional reduction in the area of the monument, much less the drastic reduction proposed by H.R. 4532, nor can we support legislation that fails to adequately recognize the strong historical and cultural interests of tribes in the Bears Ears National Monument. Any legislation to modify the Bears Ears National Monument should not reduce its acreage or diminish the management and policy role of the Bears Ears Commission.

CONCLUSION

Zuni is not a wealthy tribe and we do not come to Washington often. I am here today at the direction of our Governor and Tribal Council, and at the Tribe's sole expense. I am here because our people care enormously about the Bears Ears National Monument and stand united with the tribes represented before you today, along with our sister Pueblos in New Mexico and throughout our country, to express our adamant opposition to executive or legislative efforts to abolish or reduce Bears Ears. I also understand that the organization known as the All Pueblo Council of Governors, which includes governors from all 19 of New Mexico's Pueblos, will be providing the Committee with a resolution supporting the Bears Ears National Monument, opposing President Trump's Proclamation purporting to rescind the Obama Proclamation, and opposing H.R. 4532.

Finally, while the Zuni Tribe is appreciative of this opportunity to testify on H.R. 4532, we also respectfully urge Subcommittee members to schedule a hearing on a much different bill concerning Bears Ears—H.R. 4518.

Thank you for inviting me to testify, and for your consideration of my testimony on behalf of the people of Zuni.

Mr. BISHOP. Thank you very much. I am going to mess up this name, as well. Once again, I will apologize in advance. I am given a phonetic pronunciation of your name, but that still doesn't help.

So, Clark Tenakhongva, if you will help me on that pronunciation, I would appreciate it. You are all the way here from Arizona. Thank you for being here. You are a part of the Hopi Tribe, on the Hopi Tribal Council. Sir, what is the correct pronunciation of your last name?

Mr. TENAKHONGVA. Tenakhongva.

Mr. BISHOP. I am still getting the emphasis in the wrong part of that, but thank you very much. We appreciate you being here. You are recognized for 5 minutes.

**STATEMENT OF CLARK TENAKHONGVA, VICE CHAIRMAN,
HOPI TRIBAL COUNCIL, THE HOPI TRIBE, KYKOTSMOVI
VILLAGE, ARIZONA**

Mr. TENAKHONGVA. [Speaking Native language.] Good morning, Vice Chairman Bishop, Ranking Member Hanabusa, and members of the Subcommittee. Thank you for the opportunity to testify on H.R. 4532, Shash Jáa National Monument and Indian Creek National Monument Act. I am Clark W. Tenakhongva, a member of the Rabbit Tobacco clan, U.S. Army veteran that served in Grenada, and Vice Chairman for the Hopi Tribe. I am also the Hopi Tribe's Commissioner for the Bears Ears Commission.

The Hopi Tribe is a sovereign nation recognized by the United States. Our reservation is located in northeastern Arizona and occupies parts of Coconino and Navajo Counties. Our lands are more than 1.5 million acres, and are comprised of 12 villages on three mesas.

Our ancestral lands, cultural resources, and sacred sites extend into central and southern Utah, western Colorado, and New Mexico. We became a member of the Bears Ears Inter-Tribal Coalition to help protect these lands and resources throughout the establishment of the Bears Ears National Monument.

The Bears Ears Inter-Tribal Council includes the Hopi Tribe, Pueblos Ute Indian Tribe, the Navajo Nation, and the Ute Mountain Ute Tribe. We have worked with our traditional leaders and grassroots organizations for over a decade for the designation

of the Bears Ears National Monument to always protect its sacred and priceless culture and natural resources.

We, the people, asked that a 1.9 million-acre monument be established. In the end, President Obama designated the 1.35 million-acre Bears Ears National Monument on December 28, 2016 through Presidential Proclamation 9558. To our dismay, President Trump issued a proclamation on December 4, 2017, which cuts the boundaries of the Bears Ears National Monument by 85 percent from the 1.35 million acres to 200,000 acres, dismantling the Bears Ears National Monument.

H.R. 4532 seeks to codify this action. The Hopi Tribe opposes H.R. 4532 because the bill would, Number one, totally exclude the Hopi from the new management councils it creates; it diminishes the area that it protected; and it opens it up to grazing and motorized vehicles which would detrimentally impact this sacred landscape. H.R. 4532 takes away the Hopi Tribe's voice at the Bears Ears National Monument and puts our sacred sites at risk.

To the Hopi people, the Bears Ears National Monument is a spiritually occupied landscape. For example, the two towers near Bluff are called Pokanghoyat, two twin warrior gods. This land is a testament of Hopi stewardship evidenced by thousands of years of footprints of our ancestral villages, sacred springs, migration routes, pilgrimage trails, artifacts, petroglyphs, and the physical remains of our buried Hisatsinom, our people of long ago, all of which are intentionally left to mark the land as proof that Hopi have fulfilled their covenant.

Hopi migration is intimately associated with the sacred covenant between the Hopi people and Maasaw, the earth guardian and creator, in which the Hopi people made a solemn promise to protect the land by serving as stewards of the earth. In accordance with this covenant, the following clans—Katsina, Badger, Flute, Parrot, Bow, Greasewood, Bearstrap, Snake, Tobacco, and Rabbit—traveled and settled on lands in and around southeastern Utah during their long migration to Tuuwanasavi, the center of the Earth.

We, the people of these clans, reside on Hopi today, practicing our religion, singing our songs, and living our culture, just as our ancestors did at Bears Ears. This sacred landscape must be protected and cherished.

H.R. 4532 would diminish and dissolve the current protections that the Bears Ears National Monument provides, while also silencing the Hopi Tribe's voice.

Thank you—[Speaking Native language]—again, for the opportunity to testify today. I invite each and every one of the Committee to visit the Hopi Reservation and Bears Ears, and to hear from our people. [Speaking Native language.]

[The prepared statement of Mr. Tenakhongva follows:]

PREPARED STATEMENT OF CLARK W. TENAKHONGVA, VICE-CHAIRMAN OF THE
HOPI TRIBE

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. I am Clark W. Tenakhongva, the elected Vice-Chairman of the Hopi Tribe and the Hopi Tribe's Commissioner for the Bears Ears Commission. The Hopi Tribe appreciates this

opportunity to testify to provide the Committee with an understanding of our undisputable connection to the Bears Ears National Monument, and to object to the new proposed management of the Bears Ears National Monument through the December Presidential Proclamation and H.R. 4532.

The Hopi Tribe is a sovereign nation, recognized as such by the United States, located in northeastern Arizona. The Hopi Reservation occupies part of Coconino and Navajo Counties in Arizona, encompasses more than 1.5 million acres, and is made up of 12 villages on three mesas. Our ancestral lands, cultural resources, and sacred sites extend into central and southern Utah and western Colorado. We became a member of the Bears Ears Inter-Tribal Coalition to help protect these lands and resources through the establishment of the Bears Ears National Monument.

The Bears Ears Inter-Tribal Coalition includes: the Hopi Tribe, Pueblo of Zuni, Ute Indian Tribe, the Navajo Nation, and the Ute Mountain Ute Tribe. The Coalition worked with a grassroots tribal organization for nearly a decade for the designation of the Bears Ears National Monument and the protection of its sacred and priceless cultural and natural resources. We proposed that a 1.9 million acre monument be established. Ultimately, a 1.35 million acre Bears Ears National Monument was designated by President Obama on December 28, 2016, through Presidential Proclamation No. 9558.

The Hopi Tribe opposes H.R. 4532. A representative of the Bears Ears Inter-Tribal Coalition first testified on H.R. 4532 at a Subcommittee hearing on January 9, 2018. As noted at that hearing, H.R. 4532 would diminish tribal voices in the management of these important places. Further, H.R. 4532 emphasizes multi-use management including increased motorized vehicle use and increased grazing that would put these sensitive places at risk. The Bears Ears Inter-Tribal Coalition's January 9, 2018, testimony provided a discussion of the problems with H.R. 4532 and why the Subcommittee and Committee should not approve it. The Hopi Tribe agrees with that testimony.

HOPi CONNECTION TO BEARS EARS

To Hopi people, the Bears Ears National Monument is a spiritually occupied landscape. For example, the two spires near Bluff are *Pokanghoyat*, "War Twins." This land is a testament of Hopi stewardship through thousands of years, manifested by the "footprints" of ancient villages, sacred springs, migration routes, pilgrimage trails, artifacts, petroglyphs, and the physical remains of buried *Hisatsinom*, the "People of Long Ago," all of which were intentionally left to mark the land as proof that the Hopi people have fulfilled their Covenant.

Hopi migration is intimately associated with a sacred Covenant between the Hopi people and *M̄asaw*, the Earth Guardian, in which the Hopi people made a solemn promise to protect the land by serving as stewards of the Earth. In accordance with this Covenant, the Hopi Katsina, Badger, Flute, Parrot, Bow, Greasewood, Bearstrap, Snake, Tobacco, Rabbit, and Deer Clans traveled through and settled on lands in and around southeastern Utah during their long migration to *Tuwanasavi*, the Earth Center on the Hopi Mesas. The people of these clans still reside at Hopi today.

The Hopi Tribe claims cultural affiliation to ancestral Puebloan cultural groups in the Bears Ears National Monument and the Hopi Tribe has continually supported the identification and avoidance of prehistoric archaeological sites. We consider the prehistoric archaeological sites of our ancestors to be "footprints" and Traditional Cultural Properties. Attached to this testimony are pictures of some of the places in the Bears Ears Region that are immensely important to us. For instance, the first two pictures are pictures of what is known as the "Perfect Kiva." The well-maintained kivas from the *Hisatsinom*—the People of Long Ago—exemplify the important cultural and spiritual connection that specific objects within Bears Ears provide to the Hopi, among others. Ancestral kivas, like those of today, were entered by a ladder stretching from the roof down to the center of the floor. Kivas are still used in ceremonies today, and one merely has to compare our Tribal Seal to these two pictures to understand that we are connected to this place. It is our understanding that the "Perfect Kiva" will no longer be included within the new monument boundaries as proposed by H.R. 4532, and thus lose that protection. The other attached pictures are also sites that show our connection to this important region.

The Hopi Tribe is fully aware that over the last few decades the archaeological, natural, and geographic resources in the region have been severely impacted by looting, industrial development, and increased motorized and recreational access, including inappropriate all-terrain vehicle use. As a result of that and the importance of this region, in 2014 the Hopi Tribe sent a letter to the President supporting action to designate the greater Cedar Mesa area as a National Monument and the Hopi Tribe participated in the Bears Ears Inter-Tribal Coalition that developed the Bears Ears National Monument Proposal.

The purpose of the Antiquities Act is to set aside and preserve places like the Bears Ears National Monument for generations to come and protect them from destructive exploitation. Through a Hopi Tribal Council Resolution in March, 2016, the Hopi Tribe formally supported the establishment of Bears Ears National Monument and later in that year, the Bears Ears National Monument was established.

Since then, the Hopi Tribe has participated with the Bears Ears Tribal Commission and Federal agencies in the collaborative management of the Monument. The Hopi Tribe's participation in the management of the Bears Ears National Monument through the Hopi Commissioner is critical to maintaining Hopi culture and tradition, as well as to protecting and managing Hopi cultural resources, our footprints, and our ancestors.

The Proclamation dated December 4, 2017, cut the boundaries of Bears Ears National Monument by 85 percent, from 1.35 million acres to 201,876 acres, revoking, replacing, and dismantling the Bears Ears National Monument. H.R. 4532 seeks to codify this action.

H.R. 4532 creates new management councils that are not composed of tribally elected representatives and excludes the Hopi Tribe altogether. As you heard at the hearing on January 9, to which the Hopi Tribe was not invited and one tribal spokesperson was forced to testify on behalf of five tribes, the Hopi Tribe is a member of the Bears Ears Inter-Tribal Coalition that adamantly opposes H.R. 4532. H.R. 4532 would drastically affect some of our most important cultural resources and leave us out of the newly proposed management councils.

The Hopi Tribe leads the litigation known as *Hopi Tribe et. al. v. Trump*, showing the importance of Bears Ears to us. And therefore, we also lead the choir urging you not to legislatively reduce the boundaries in any way, and to move ahead on developing the management plan for the Bears Ears National Monument with the contributions of the Bears Ears Commission of Tribes as originally envisioned by the Hopi Tribe and the Inter-Tribal Coalition. The Hopi Tribe cannot work in support of a bill, H.R. 4532, that would legislatively confirm the President's action dismantling a decade of collaborative work to establish Bears Ears National Monument.

We appreciate the tribal, congressional, and the public support to protect Bears Ears National Monument and to maintain the current boundaries. Therefore, the Hopi Tribe supports H.R. 4518, Bears Ears Monument Expansion Act and Durbin/Udall Senate bill that would expand the Bears Ears Monument.

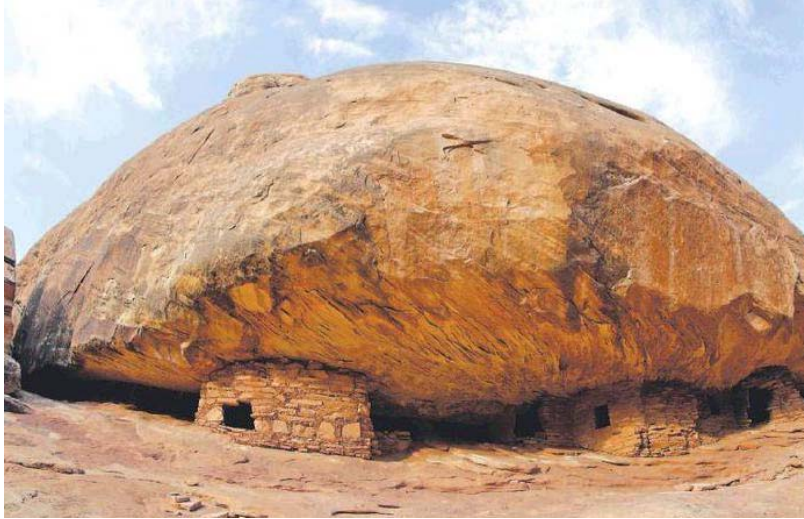
We invite you to come to Hopi to sit down, eat with us, and meet our people. The Hopi people are a people of peace. And so we invite you to Hopi to come in and eat, and we can explain to you in more than 5 minutes the responsibilities of being Hopi and why this place is so important to us.

CONCLUSION

The Bears Ears region is immensely important to the Hopi Tribe. It is a part of our history and who we are as a people. We have worked since time immemorial to uphold our sacred covenant to protect the land by serving as stewards of the Earth, and continue to do so today in opposing any efforts to abolish and reduce the Bears Ears National Monument. We stand united with the tribes represented before you today, to express our adamant opposition to this effort to abolish or reduce Bears Ears.

ATTACHMENTS





QUESTIONS SUBMITTED FOR THE RECORD BY REP. HANABUSA TO MR. CLARK W.
TENAKHONGVA, VICE-CHAIRMAN OF THE HOPI TRIBE

Question 1. H.R. 4532 leaves three of the five major tribes connected to the original Bears Ears National Monument designation as a part of the new management council, which would result in the exclusion of the Hopi Tribe.

You shared with the Committee the significance of the Kivas within the President Obama's Bears Ears National Monument designation, specifically the one known as the "Perfect Kiva" which would no longer be within the Bears Ears boundaries if H.R. 4532 were to be signed into law. These Kivas serve as a holy place for the Hopi to pray and conduct ceremonies, all practices of which were in existence long before European colonization. In addition, you have stated that the Hopi people have strong ties to this area through thousands of years of stewardship along with it being used as migration routes and pilgrimage trails for the Hopi people.

Mr. Tenakhongva, you expressed your concerns regarding the religious rights of the Hopi and how the exclusion of these Kivas disrupts your right to practicing your religion. Considering that the Hopi tribe would no longer be represented in the management and oversight of the new Bears Ears National Monument boundaries in addition to losing the protection for the "Perfect Kiva," where does that leave the Hopi Tribe in regards to the number of places in which they can go to practice traditional ceremonies and still have a presence in the Utah community?

Answer. This is in response to your question following the testimony on January 30, 2018 of the Hopi Tribe before the 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.

Your correspondence states that "H.R. 4532 leaves three of the five major tribes connected to the original Bears Ears National Monument designation as a part of the new management council, which would result in the exclusion of the Hopi Tribe."

Please find enclosed our letter dated February 9, 2018 to Representative Curtis regarding another meeting on February 12, 2018 that states, "meetings should be held in our communities so you can hear from our people about the importance of Bears Ears." Removing the Hopi Tribe from an integral role in the management of these important areas puts western development and beliefs over the beliefs of the Hopi people, contrary to the thoughtful process that was originally created under the Obama Proclamation. It gives non-Hopi people, that are not representatives of the United States, a veto on exactly how these places will be managed, without providing the Hopi people with a meaningful government-to-government response. When the United States abdicates its government-to-government relationship to local individuals, it demeans the Hopi Tribe and the historical relationship the United States has with the Hopi Tribe, which includes an obligation to protect the sovereign rights of the Hopi Tribe.

Hopi migration is intimately associated with a sacred Covenant between the Hopi people and Maasaw, the Earth Guardian, in which the Hopi people made a solemn promise to protect the land by serving as stewards of the Earth. In accordance with this Covenant, ancestral Hopi clans traveled through and settled on the lands in and around the Bears Ears National Monument—during their long migration to Tuuwanasavi, the Earth Center on the Hopi Mesas. The land is a testament of Hopi stewardship through thousands of years, manifested by the "footprints" of ancient villages, sacred springs, migration routes, pilgrimage trails, artifacts, petroglyphs, and the physical remains of buried Hisat.sinom (the "People of Long Ago"), all of which were intentionally left to mark the land as proof that the Hopi people have fulfilled their Covenant.

The Hopi ancestors buried in the Bears Ears National Monument continue to inhabit the land, and they are intimately associated with the clouds. These clouds travel out across the countryside to release the moisture that sustains all life. This area has been a sacred destination for religious pilgrimages since time immemorial. "The clouds, our fathers are calling us," the Hopi people say, "The clouds, the spring, the shrine, up above, there's a mesa where they're calling us from."

The Hopi footprints and clouds in the Bears Ears National Monument are part of a living, sacred landscape that nourishes and sustains Hopi identity. This landscape is steeped in cultural values and maintained through oral traditions, songs, ceremonial dances, pilgrimages, and stewardship. As a cultural landscape, the archaeological sites and physical terrain of the Monument situates the Hopi people in time and space, providing a geographical conception of history and religion that connects the past, present and future.

The landscapes, natural features, place names, archeological sites, sacred sites, plants, animals, minerals, and artifacts found in these locations are connected to the Hopi people through ceremony, traditional histories, and oral traditions. As such, these ethnographic resources give meaning to the Monument. Hopi history and cultural values associated with ancestral sites and landscapes are deep and abiding.

In response to your question, “where does that leave the Hopi Tribe in regards to the number of places in which they can go to practice traditional ceremonies and still have a presence in the Utah community,” enclosed please find our letter dated August 7, 2017, to the state of Utah regarding our claim for repatriation and reburial of Hopi ancestral human remains in the custody of the state of Utah. We have had no response from the state of Utah regarding this claim and, therefore, we hereby request the Subcommittee’s assistance in inquiring of the state of Utah to this “presence in the Utah community.” This is one example of how the local government treats the traditional beliefs of the Hopi Tribe. By removing protections from many important places, and giving a veto to local state and county interests over those of the sovereign tribes that have historical and ongoing ties to this area, the Curtis Bill would clearly signal to all involved that the traditional beliefs and practices of the Hopi Tribe are to be relegated to an afterthought.

Therefore, we reiterate that the Hopi Tribe opposes H.R. 4532 and we reiterate that it cannot be improved by amendments because it is fundamentally flawed in that it would legislatively confirm the President’s action dismantling a decade of collaborative work to establish Bears Ears National Monument. The original monument proclamation valued the beliefs and practices of the sovereign tribes that have ties to this area, including the Hopi Tribe. We cannot assist you in its destruction.

However, we also reiterate our willingness to answer any other questions you may have and our invitation to any member of the Committee to the Hopi Reservation to sit down, eat with us, and spend more than 5 minutes and one question listening and learning about why Bears Ears is so important to the Hopi people. We welcome you!

ATTACHMENTS

THE HOPI TRIBE,
KYKOTSMOVI, ARIZONA

February 9, 2018

Hon. John R. Curtis
2236 Rayburn House Office Building
Washington, DC 20515

Dear Congressman Curtis:

We have received the February 8 invitation to meet on February 12, 2018 to discuss H.R. 4532. Thank you for the invitation, but the Hopi Tribe will not be able to send a representative to this meeting.

As an initial matter, I am Vice-Chairman of the Hopi Tribe, I served as the designated representative to testify at the January 30 hearing in Washington, DC, and I am the Tribe’s representative to the Bears Ears Commission. Therefore, please direct all future correspondence on H.R. 4532 or any issue related to Bears Ears directly to me. In addition, please copy my Chief of Staff, Troy Honahnie, Jr. at THonahnie@hopi.nsn.us, to ensure a prompt reply.

Second, the Tribe objects to the extremely short notice for the meeting, namely two business days for a meeting that would require travel. The Tribe is engaged in a great number of important matters at this time and cannot rearrange all other pending business to accommodate the last-minute request. This challenge is compounded by the fact that I would have to travel, again at the Tribe’s expense. During the January 30, 2018 hearing, I invited you and any member of the Committee to the Hopi Reservation to sit down, eat with us, and spend more than five minutes listening and learning about why Bears Ears is so important to the Hopi people. We would welcome you.

Third, the tribe objects to the characterization in your invitation that San Juan County is “the community most affected by this ongoing debate.” On the contrary, Hopi people have been associated with Bears Ears for thousands of years and as we have stated numerous times, we maintain very close cultural and spiritual ties to Bears Ears. From that perspective, the Hopi—and indeed all five Tribes in the Coalition—are the communities most affected by this ongoing debate. Meetings

should be held in our communities so you can hear directly from our people about the importance of Bears Ears.

Finally, as Shaun Chapoose stated on behalf of the tribes in the first hearing on January 9, and as I reiterated again during the January 30 hearing, the Tribe opposes H.R. 4532. It cannot be improved by amendments because it is fundamentally flawed in that it would legislatively confirm the President's action dismantling a decade of collaborative work to establish Bears Ears National Monument. It would remove protection from 85% of the area that the Tribe advocated to protect. We cannot assist you in its destruction.

I remain willing to answer any questions you may have, but our views on H.R. 4532 have not changed and will not change.

Sincerely,

CLARK W. TENAKHONGVA,
Vice-Chairman
Hopi Representative
Bears Ears Commission

THE HOPI TRIBE,
KYKOTSMOVI, ARIZONA

August 7, 2017

Shirlee Silversmith, Director
State of Utah, Division of Indian Affairs
250 North 1950 West, Suite A
Salt Lake City, Utah 84116

Dear Director Silversmith:

Thank you for your correspondences dated April 4, 2017, regarding Official Notification of the Discovery and Analysis of Native American Human Remains, Nos. 17-04, 17-05, 17-06 and 17-07.

Pursuant to Hopi Tribal Council Resolution, H-70-94, the Hopi Tribe claims cultural affiliation to prehistoric the Paleoindian, Archaic, Basketmaker, Anasazi, and Fremont prehistoric cultural groups in Utah. The Hopi Cultural Preservation Office supports the identification and avoidance of prehistoric archaeological sites, and we consider the prehistoric archaeological sites of our ancestors to be "footprints" and Traditional Cultural Properties. Therefore, we appreciate the State of Utah, Division of Indian Affairs' continuing solicitation of our input and your efforts to address our concerns.

The Hopi Cultural Preservation Office has reviewed the enclosed Antiquities Section Reports. Regarding Official Notification of the Discovery and Analysis of Native American Human Remains, No. 17-04, the enclosed Analysis of Human Remains AS-299 states the remains are from Escalante, were found on an ATV trail on private property by the landowner, and "It is likely that the skull was not original to the location but had been left by someone after being removed from a different location." The analysis included radiocarbon dating, and the remains date to the Pueblo II period. They have been determined to be culturally affiliated to the Ancestral Puebloan or Anasazi culture and "the modern Puebloan groups should be afforded an opportunity to submit claims on these remains."

Therefore, the Hopi Tribe claims cultural affiliation to the human remains designated AS-299 and hereby requests the support of the Pueblo of Zuni to jointly claim these remains for repatriation and reburial on Grand Staircase-Escalante National Monument.

Regarding Official Notification of the Discovery and Analysis of Native American Human Remains, No. 17-05, the enclosed Analysis of Human Remains AS-318 and 319 states the remains, a tooth and cranial fragment, were transferred from the Hutchings Museum in Lehi subsequent to being found in unprocessed collections presumed to be from Ute County. The remains are determined to be culturally unidentifiable, and likely originated within aboriginal lands of the Ute Tribe. Therefore, we defer to the Ute Tribe for the repatriation and reburial of these remains.

Regarding Official Notification of the Discovery and Analysis of Native American Human Remains, No. 17-06, the enclosed Analysis of Human Remains AS-305 states the partial remains of a child were recovered while excavating site 42WS2232, described as Pueblo II Virgin Anasazi, on private land in St. George. The remains were buried with three associated funerary objects including a ceramic

jar and two canteens. The cultural affiliation section states "The Virgin Anasazi likely ultimately became the Uto-Aztecan Puebloan people of the historic period."

Hopi people are the Uto-Aztecan people of the historic period. However, we also acknowledge the Paiute traditional association or cultural affiliation to the Virgin Anasazi earlier identifiable group and so we have collaborated with the Paiute bands for the repatriation and reburial of culturally unidentifiable remains from Zion National Park. Therefore, because these remains were recovered from lands known to be aboriginal land of the Southern Paiute, we support the Paiute Tribe of Utah for their repatriation and reburial.

Regarding Official Notification of the Discovery and Analysis of Native American Human Remains, No. 17-07, the enclosed Analysis of Human Remains AS-301 states the remains were discovered eroding out of the side of a wash on private land in Kanab and "It is clear that the remains had been reburied in this location and were not in their original burial location." The remains were subjected to radiocarbon dating and stable isotope analysis resulting in a Pueblo II/III time period and maize diet results. They have been determined to be culturally affiliated to the Ancestral Puebloan or Anasazi culture and "the modern Puebloan groups should be afforded an opportunity to submit claims on these remains."

Therefore, the Hopi Tribe claims cultural affiliation to the human remains designated AS-301 and hereby requests the support of the Pueblo of Zuni to jointly claim these remains for repatriation and reburial on Grand Staircase-Escalante National Monument.

We have long reiterated our dissatisfaction with the burial vault, and our request that the State of Utah identify a location where human remains and their associated funerary objects in the custody of the State of Utah can be reburied and protected in perpetuity. We have explained that the Hopi Tribe culturally believes Ancient Human Remains of migrating Ancient Ancestral Puebloan People should be reburied as close as possible to the locations from which they were removed.

Therefore, in the enclosed letter dated June 12, 2017, and pursuant to our enclosed April 17, 2017 intent to repatriate letter, with the Bureau of Land Management and Bears Ears National Monument Commission, the Hopi Tribe claimed human remains and any associated funerary objects designated AS-182, AS-183, AS-236, AS-246, AS-248, AS-249, AS-250, and AS-303 on behalf of the modern Pueblo groups and the Bears Ears National Monument Commission, for repatriation and reburial on Bears Ears National Monument.

In addition, we requested to be provided with a complete inventory of all the other Ancestral Puebloan remains in the burial vault at Emigration Canyon, and stated our intent to claim all these Ancestral Pueblo remains from southeastern Utah on behalf of the modern Pueblo groups and the Bears Ears National Monument Commission, for repatriation and reburial on Bears Ears National Monument.

We appreciate your prompt assistance in addressing our requests for repatriation. If you have any questions or need additional information, please contact Terry Morgart at the Hopi Cultural Preservation Office at 928-734-3619 or tmorgart@hopi.nsn.us. Thank you again for your consideration.

Respectfully,

LEIGH KUWANWISIWMA, DIRECTOR,
Hopi Cultural Preservation Office

Mr. BISHOP. Thank you, sir. Now I am going to call to the witness stand, with great pleasure, the Honorable Russell Begaye, who is President of the Navajo Nation. President, I appreciate the last time we had a chance to talk, and we are very honored to have the President of the Navajo Nation joining us here from Window Rock, Arizona.

So, President, you are recognized for 5 minutes.

**STATEMENT OF THE HON. RUSSELL BEGAYE, PRESIDENT,
NAVAJO NATION, WINDOW ROCK, ARIZONA**

Mr. BEGAYE. Thank you, Chairman Bishop, Ranking Members of the Committee. My name is Russell Begaye. I am the President of the Navajo Nation, and I am also accompanied by Davis Filfred,

who is the elected council delegate for a majority of the Utah chapters.

One hundred and fifty years ago, Navajo Nation leaders sat with Federal officials at Fort Sumner, New Mexico, and signed a treaty with the U.S. Government that ended our exile and confinement of the Long Walk period. Some of our people, however, never went on the Long Walk, and instead took refuge at Bears Ears. These people included some of my ancestors. I acknowledge that I have learned much about Bears Ears since 2015. Like many Navajos, I am proud of my connection with Bears Ears, and I want the landscape, the burial sites, the cultural patrimony preserved for future generations.

That is why I am here today before Congress, 150 years after our people signed a treaty with the Federal Government. I am here because 150 years later we must continue to fight to honor our treaty, our landscape, and our cultural patrimony for future generations. Thank you for holding this hearing on H.R. 4532, the Shash Jáa National Monument and Indian Creek National Monument Act.

We stand united. The Navajo Nation stands united with other tribes at the Bears Ears Inter-Tribal Coalition in opposition to this bill. The Navajo Nation was never consulted on H.R. 4532. Nevertheless, the bill uses our language in its title. In addition to providing a misleading bill name to suggest that the Navajo Nation supports the bill, H.R. 4532 also misleadingly states that its purpose is to create the first tribally managed national monument.

In fact, the monument created by the bill would be managed by appointees of President Trump, made in consultation with the Utah congressional delegation, and the management council will be composed of only a fraction of tribal members. No tribe would have an input on the members appointed to the management council. The tribal management in this bill is tribal in name only.

In the Antiquities Act, I am the one that selected, with approval of the Navajo Nation Council, the person that sits today on the Commission. I will not have that opportunity in this bill. The Navajo Nation Council unanimously adopted the resolution formally opposing H.R. 4532 for several reasons, including that.

The bill was created over the five tribes' clear and united position to protect the original monument designation. The bill stifles the tribal voice in monument management, and the bill eliminates protection for our cultural patrimony, which has already been under attack. We want to preserve our cultural patrimony for future generations.

It is important to note that the original monument designation was a compromise between inter-tribal proposal and the Utah Public Lands Initiative proposal. The Utah delegation and county commissioners received most of what they sought in their advocacy for the PLI. The final map for the monument reflects almost exactly the map the Utah delegation proposed in the PLI. Why Utah and county officials now disclaim any ownership of the original monument design is mystifying.

I attended this bill's first hearing and there are some statements that I am going to set straight.

First, one non-Navajo individual stated that the Navajo Nation was not consulted prior to the original proclamation. This is false.

The Navajo Nation was consulted. I, as President, was consulted. The Navajo Nation Council unanimously supports the original monument.

Also, at the last hearing, an individual stated that the original designation was pushed by special interests from outside the Navajo Nation, the Navajo Tribes, our Indian tribes, and was therefore not an initiative of the Navajo people. This is not the case. The Navajo leadership and our grassroots community fully supported and advocated for the original designation.

The only special interests that concern me are those of uranium mining interests.

Thank you, Chairman Bishop, Committee members.

[The prepared statement of Mr. Begaye follows:]

PREPARED STATEMENT OF PRESIDENT RUSSELL BEGAYE OF THE NAVAJO NATION

The Navajo Nation appreciates the courtesy of the Committee members and staff in providing Navajo leadership and the leadership of the other tribes of the Bears Ears Inter-Tribal Coalition (the "Coalition") the opportunity to speak on H.R. 4532, the Shash Jáa National Monument and Indian Creek National Monument Act. We stand united with the other tribes of the Coalition on the subject of this hearing.

The Navajo Nation was never consulted on H.R. 4532, but the bill nevertheless uses the Navajo language in its title. In addition to providing a misleading bill name to suggest that the Navajo Nation supports the bill, H.R. 4532 also misleadingly states that its purpose is to "create the first tribally-managed national monument." In fact, the miniature monuments created by the bill would be managed by appointees of President Trump made in consultation with the Utah congressional delegation, and would be composed of only a fraction of tribal members. Incredibly, no tribe would have any input on the tribal members appointed to the management councils and those individuals would not be required to be elected or appointed representatives of the five tribes' governments. In essence, this bill's "tribal-management" is tribal in name only.

For years, our nation, along with the other Coalition tribes, advocated strongly for the protection of the Bears Ears region and its unmatched cultural and archaeological resources. The original monument the tribes advocated for that was designated by President Obama (the "Original Monument") accomplished much of what we sought. It was therefore very disappointing to see and hear the representations made at the previous hearing without being provided the chance to address them directly to the Committee. So again, thank you for this opportunity.

The Navajo Nation opposes H.R. 4532. On January 18, the Naabik'iyáti' Committee (the Navajo Nation Council committee of the whole) unanimously passed Legislation No. 0015-18, "An Action Relating to Resources and Development Committee and Naabik'iyáti' Committee Opposing H.R. 4532 Titled 'Shash Jáa National Monument and Indian Creek National Monument Act'." (Attached as Exhibit A). Legislation No. 0015-18 formally sets forth the Nation's official policy position in opposition to H.R. 4532. The legislation specifically objects to H.R. 4532 for six reasons:

1. The bill would codify President Trump's illegal attempt to revoke and replace the original Bears Ears National Monument;
2. The reduction in size of the monuments by over 1.1 million acres will leave unprotected countless cultural, natural, and sacred objects;
3. The composition of the proposed two management councils may create difficulty in monument management;
4. The role of the state of Utah in the monument management will eliminate meaningful government-to-government relations between the Federal Government and the Navajo Nation facilitated previously by the current collaborative management relationship between the Bears Ears Commission and the Federal agencies facilitated by the original proclamation;
5. The bill divides the five tribes by not including members of each nation in the management councils and by naming the Shash Jáa monument in only one tribal language;

6. The bill includes a Federal-state land exchange provision that could affect tribal reservation lands and only allows for tribal consultation as an avenue for objection to land exchanges.

THE NAVAJO NATION'S INTEREST IN THE BEARS EARS REGION

The Bears Ears region holds special cultural and historical significance for the Navajo people. We believe that the towering spires in the Valley of the Gods are ancient Navajo warriors frozen in stone, and that the Bears Ears peaks are the top of the dismembered head of a bear that stands guard to culturally important Changing Bear Woman. Many traditional Navajo ceremonies, practiced since time immemorial, continue to take place in the Bears Ears region protected in President Obama's Monument. These ceremonies draw on the plants, soils, and other items that can be harvested only from the area. For example, certain soils from the region possess special protection and empowering qualities when harvested and administered in the proper way. The Bears Ears landscape also has seminal importance in Navajo songs, prayers, and healing ceremonies that have unique and close ties to the Bears Ears region, its flora and fauna, and its historical and spiritual qualities, including the *Hozhooji* (Blessingway), which seeks to restore and revitalize *hózhó* (harmony, beauty, and balance) for the individual for whom the ceremony is performed.

In addition to its current spiritual significance, Bears Ears has great historical significance to the Navajo people. For example, the White Canyon region, known as "*Nahoniti'ino*" (hiding place) to the Navajo people, is revered because it was a place of refuge in the summer of 1864, when Colonel Kit Carson marched over 9,000 Navajos at gunpoint 350 miles to Fort Sumner in east central New Mexico as part of his scorched earth campaign against the Navajo. Hundreds of Navajos died of hunger, exhaustion, or abuse along the journey. Those who survived were held as prisoners of war at Bosque Redondo until 1868 when Navajo leaders negotiated the release and return of their people to their homelands pursuant to a treaty. Many Navajos evaded removal and conquest by hiding in the Bears Ears region.

Bears Ears is also home to important figures in Navajo history, including Chief Manuelito, (born in the Headwaters Region of Bears Ears, north of Cedar Mesa) who was a key figure in the resistance against the Long Walk and signatory to the Treaty of 1868. Many Navajos, including myself, are also proud to be descended of Navajo bands who eluded capture from the U.S. army by hiding in the canyons of the Original Monument.

Navajo people continue to camp in the area and continue to hunt for wild game—including elk, mule deer, wild turkeys, and rabbits—as they have done since time immemorial. Other Navajo people access the lands to forage for native plants such as piñon nuts, wild potatoes, wild onions, spinach, turnips, and sumac berries. Navajo people also continue to gather firewood, grasses for traditional basket-weaving, and logs for traditional structures. Navajo medicine people also harvest soils and medicinal plants such as sage, juniper and mountain tobacco, all of which are important in numerous Navajo ceremonial practices. These uses create a connected, living landscape. The many uses of the Bears Ears region support the traditional Navajo way of life, not only for those that came before us, but also for Navajos today while we strive to protect the land for our future generations.

We know the Hopi Tribe, Ute Mountain Ute Tribe, Zuni Tribe, and the Ute Indian Tribe similarly revere the Bears Ears. We have fought together to protect this landscape because within it lives our peoples' histories and our futures.

The original President Obama designation of the Bears Ears region as a National Monument reflected the many hours our five nations spent working with executive branch staff to explain the significance and extent of tribal resources in the Bears Ears region. The Original Monument assured us that many of our cultural and historic sites and objects would finally receive proper protection. While the monument boundaries were not as large as we had advocated for, the Bears Ears landscape remained largely intact despite the compromise the Obama administration made between what we sought and what the Utah delegation sought in the failed Public Lands Initiative ("PLI"). Indeed, the Utah delegation and the San Juan County Commissioners received most of what they sought in their advocacy for the PLI as can be seen in the final map for the Monument, which reflects almost exactly the map the Utah delegation proposed in the PLI (maps attached as Exhibit B). Why Utah and County officials now disclaim any ownership of the Original Monument design is mystifying.

We were also encouraged that the Navajo Nation and the other Coalition tribes would obtain a meaningful role in managing the Original Monument, thus restoring our connection to those lands. We were extremely disappointed when Secretary

Zinke provided his lop-sided inquiry into the Monument (granting unfettered access to the Utah delegation and County officials, and providing little over an hour to the tribes, in sharp contrast to a 4-day excursion the Secretary had with the San Juan County Commissioners). We were even more disappointed when President Trump ignored our requests to meet with him regarding Bears Ears to explain its significance to the Navajo people, and barreled forward with a proclamation to shrink Bears Ears National Monument to an appalling 15 percent of its original size—all while being aware that the Navajo Nation opposed any reduction in the size of the Monument. This was an act of great disrespect to the importance of the Bears Ears region to the Navajo Nation and the Navajo people.

H.R. 4532

The bill being considered today, H.R. 4532, is a threat to the Bears Ears landscape equivalent to President Trump's proclamation. This is not a bill designed to help protect the lands for the tribes; it is a bill that provides near-exclusive control of these Federal lands in the state and local counties' hands and gives only lip service to tribal interests. This bill appears to be an opportunity for the state to control natural resources on Federal lands rather than a sincere effort to include tribes in land management. Indeed, it was a bill developed with no consultation from our tribal governments, yet, it is being touted as providing tribal co-management.

During the first hearing on H.R. 4532 and while Chairman Bishop was speaking, several images were put up on the screen to suggest tribes were consulted during the drafting of the bill. One of the images was a picture of former Representative Jason Chaffetz with Navajo Nation President Russell Begaye and Vice President Jonathan Nez. This picture was *not* taken during any consultation or meeting on H.R. 4532, and Navajo Nation leadership was not asked to provide any input on the bill prior to its introduction. Representative Curtis, the sponsor for H.R. 4532, was not even in office when the picture of Representative Chaffetz and the Navajo leadership was taken.

Also during the first hearing on this bill, two other misrepresentations were raised that must be refuted. First, one non-Navajo individual stated unilaterally that the Navajo Nation was not consulted prior to the original proclamation. This is false. The Navajo Nation was consulted, I was consulted, and our Navajo Nation Council unanimously supported the Original Monument designation even prior to the issuance of the original proclamation. In fact, the Navajo Nation, along with the other four tribes advocated for an even larger monument designation prior to designation.

Second, that individual stated that the original designation was pushed by "special interests" and was therefore not an initiative of the Navajo people. Again, this is not the case. The Navajo Nation elected leadership and our grassroots community fully supported and advocated for the original designation. Attached to this testimony are resolutions in support of the Original Monument from the Navajo Nation Council, the Naabik'iyáti Committee, and the Navajo Utah Commission (Exhibit C). The Original Monument designation was supported by the Navajo Nation and our Utah chapters.

Broadly, H.R. 4532 retains the same failing as the Trump proclamation: it does not protect the Bears Ears landscape in a way that is meaningful and lasting, and it leaves the landscape as a disconnected web of management parcels. For example, the Original Monument designation protected the Valley of the Gods area from extractive development—H.R. 4532 does not for the period between the Trump Proclamation and passage of the bill. H.R. 4532 allows for extensive uses and development of land between the small, protected areas, greatly increasing the risk to cultural sites, traditional use areas, and, more generally, a healthy Bears Ears ecosystem, from the activities that may occur between these areas. It is no defense that some of these lands that fall outside of the protections of H.R. 4532 may remain in protected status because these protections are limited in area and in scope. Just as it was critical to protect the greater Yellowstone area to retain the character of that landscape—not just the individual geysers or hot springs—the Bears Ears region should be protected as a whole landscape or we risk losing the character and spiritual significance of it.

Further, the legislation gives only passive attention to the interests of the Navajo Nation and the other Coalition tribes in monument management. The Original Proclamation established the Bears Ears Commission, a group made up of representatives from and chosen by the five tribes, charged with assisting directly the Secretaries of Interior and Agriculture with management recommendations for the monument. But rather than utilize the Bears Ears Commission's expertise in a similar capacity, H.R. 4532 would subordinate the Bears Ears Commission input below

new management councils chosen without any tribal government input. These councils would be made up of individuals appointed by the President, including one Federal agency official, two members of the San Juan County Commission of Utah, and hand-picked tribal members (not tribal officials). The four tribal representatives on the Shash Jaa Tribal Management Council would be limited to only two tribes, not the five represented on the Commission, and would make up just over half of the Council. The one tribal representative on the Indian Creek Management Council would not have to be from any of the five tribes represented on the Commission, and would be only $\frac{1}{5}$ of the Indian Creek Management Council. Importantly, the tribes would not have a say in who was appointed to the management councils to speak on behalf of the tribes. To call these Councils “tribal,” and the monuments they would manage “the first tribally managed national monuments,” is an affront to tribal sovereignty and an insult to the intelligence of anyone who has read the bill. The Navajo Nation hoped that modern Federal Indian policy would have rejected, not endorsed, such practices.

To be very clear, H.R. 4532 is *not* a tribal co-management bill because none of the tribes with cultural and historic ties to the Bear Ears region support the bill nor is there a mechanism for their participation in the monuments’ management councils. The management structure of this bill buries the input of the Bears Ears Commission—the true voices of the five tribes, chosen by the five tribes—under a monument management council likely chosen to be hostile to the Commission’s interests. The original Bears Ears framework honored tribal sovereignty by providing the Commission direct government-to-government communication with the Secretaries of Interior and Agriculture, the tribal trustees, to effectuate monument management. Here, H.R. 4532 would charge not cabinet-level government officials with this important duty, but hand-selected county commissioners, non-specific Federal officials, and non-specific individual tribal citizens. This does not reflect a true commitment to tribal sovereignty and it concerns the Navajo Nation that this Congress is willing to even consider an abdication of the trust relationship in this bill to a primarily non-tribal and non-Federal council.

Although H.R. 4532 relies on the original Obama Proclamation to provide important consultation rights to tribes—such as “regularly and meaningfully engaging” with the Bears Ears Commission, in “carefully and fully” considering the Commission’s expertise, and soliciting information and proposals from tribes “to integrate Native American traditional and historical knowledge and special expertise into the management plan”—implementation of the tribes’ recommendations relies on the discretion of the monument management council appointed by the President in coordination with the Utah congressional delegation, both fierce opponents of the monument’s designation.

CONCLUSION

The Navajo Nation respectfully opposes H.R. 4532 because it fails to honor the five tribes that worked to establish the Bears Ears National Monument. Additionally, the bill fails to reflect a fundamental understanding of tribal sovereignty and instead reflects a disregard for the cultural, historical, and religious patrimony we seek to protect in the Bears Ears region.

EXHIBIT A—2018 NAVAJO NATION COUNCIL RESOLUTION

NABIJA-05-18

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’ÍYATI’ COMMITTEE OPPOSING H.R. 4532 TITLED “SHASH JAA
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'iyáti' 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'iyáti' Committee as a Navajo Nation Council standing committee and as such empowered Naabik'iyáti' 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’iyáti’ 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’iyáti’ Committee

Motion: Honorable Leonard H. Pete
Second: Honorable Jonathan Perry
Chairperson Bates not voting

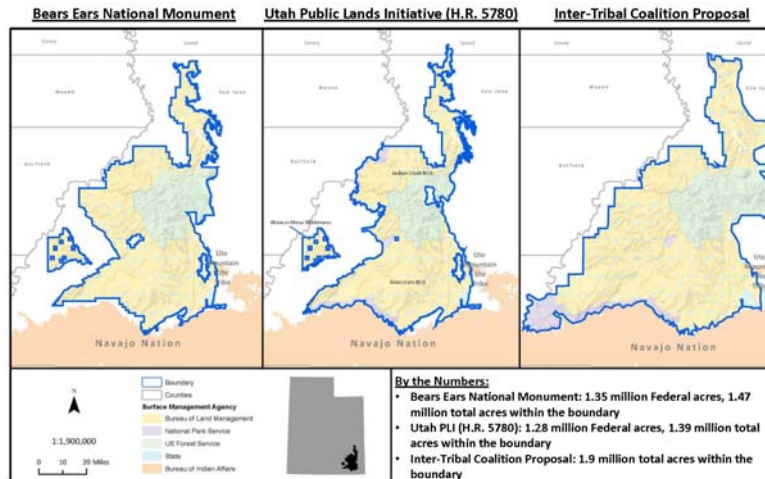
EXHIBIT B**Bears Ears National Monument and other proposals for protecting the Bears Ears area**

EXHIBIT C**NABIMA-13-15****RESOLUTION OF THE NAABIK'ÍYÁTI' COMMITTEE OF THE NAVAJO NATION COUNCIL****23rd Navajo Nation Council—First Year 2015****AN ACTION**

RELATING TO THE RESOURCES AND DEVELOPMENT COMMITTEE AND THE NAABIK'ÍYÁTI' COMMITTEE; SUPPORTING THE UTAH DINE BIKEYAH CONSERVATION PROPOSAL FOR THE FEDERAL DESIGNATION OF BEAR'S EARS NATIONAL CONSERVATION AREA/NATIONAL MONUMENT IN SAN JUAN COUNTY, UTAH, TO PROTECT NATIVE RIGHTS AND INTERESTS ON FEDERAL LANDS FOR FUTURE GENERATIONS

WHEREAS:

1. The Navajo Nation Council is the governing body of the Navajo Nation. 2 N.N.C. § 102(A). All powers not delegated are reserved to the Navajo Nation Council. 2 N.N.C. § 102(B). The Navajo Nation Council shall supervise all powers delegated. 2 N.N.C. § 102(C).
2. The Naabik'iyáti' Committee is one of five standing committees of the Navajo Nation Council and is comprised of all twenty-four members of the Navajo Nation Council. The Committee is authorized to assist and coordinate all requests for information, appearances and testimony relating to proposed county, state and federal legislation impacting the Navajo Nation. 2 N.N.C. §§ 180 and 701(A)(6).

3. The Navajo Nation includes communities in San Juan County, Utah; these communities depend on federal lands and resources within San Juan County, Utah; a copy of a Memorandum of Understanding between the Utah Dine Bikeyah, A Utah Non-Profit Corporation and the Navajo Nation Division of Natural Resources is attached as Exhibit B; and
4. The Navajo Nation members occupy a special status as both U.S. citizens and members of the Navajo Nation whose ancestral lands encompass all of San Juan County; and
5. Bear's Ears area within San Juan County, Utah, is part of the proposed National Conservation Area/National Monument to consist of 1.9 million acres and would include additional Wilderness units within and outside of its boundary. This region is the ancestral home of many Southwestern Native American Tribes, including the Navajo, Hopi, Zuni, Acoma, Zia, and Jemez Pueblos along with the Ute Mountain, Southern, and Uintah Ouray Utes, the San Juan, Kaibab, and Utah Paiute Tribes and the Jicarilla Apache Tribes which assert their affiliation, occupation and enduring use of these lands. The Bear's Ears region is also the birthplace of Navajo Headman Manuelito; and
6. The proposed National Conservation Area/National Monument is bordered on the west by the Colorado River and on the south by the San Juan River and the Navajo Nation; the proposed National Conservation Area/National Monument is characterized by prodigious topographic diversity and striking landforms containing intricately rich ecological systems; the Navajo and other Tribes depend upon the land within the proposed National Conservation Area/National Monument to sustain their traditional livelihoods and cultural practices. Cedar Mesa, the proposed National Conservation Area/National Monument's centerpiece, offers sprawling vistas of Comb and Butler Washes, and extends beyond to Moki, Red, Dark, Grand Gulch, and White canyons that each support verdant ribbons of riparian habitat. Desert bighorn sheep grace the lower desert lands while the 11,000 foot Abajo Mountains host forests of ponderosa pine, spruce, fir and aspen, providing a home to mule deer, elk, black bear and mountain lion, sacred icons of the mesa's original peoples. Paramount for the Navajo, the majority of the regions inhabitants, is the proper management of the proposed National Conservation Area/National Monument's native plants and wildlife that are food, shelter and medicine and its cultural sites that are central to their spiritual practices; and
7. This region contains unsurpassed cultural and paleontological resources; the proposed National Conservation Area/National Monument is world renowned for the integrity and abundance of its archaeological resources. Six cultural special management areas are within the proposed National Conservation Area/National Monument boundaries: Alkali Ridge National Historic Landmark, the Hole-in-the-Rock Historical Trail and the Grand Gulch, Big Westwater Ruin, Dance Hall Rock, Sand Island Petroglyph Panel, the Newspaper Rock Petroglyph Panel, and the Butler Wash Archaeological District National Register site. Also occurring in the proposed National Conservation Area/National Monument's 19 distinct geologic units are scientifically significant vertebrate and non-vertebrate paleontological resources that are particularly abundant in the Cedar Mountain, Burro Canyon, Morrison, and Chinle Formations; and
8. The proposed National Conservation Area/National Monument has been inhabited for more than 12,000 years by multiple indigenous cultures, which crossed, and built civilizations on these lands. At the Lime Ridge Clovis site is evidence of Paleoindian occupation and the archaeological record indicates widespread use between 6000 B.C. and A.D. 100 by Archaic Peoples. Possessing numerous Archaic Period sites of varying size and complexity are Cedar Mesa, Elk Ridge, and Montezuma Canyon. While other notable sites include Alkali Ridge, Cowboy Cave, Old Man Cave, and Dust Devil Cave. The heaviest occupation of the proposed National Conservation Area/National Monument lands was perhaps by the Formative Period Peoples (AD 100–AD 1300) who left very large numbers of archaeological sites ranging from small lithic scatters to large highly complex village sites; and
9. The proposed National Conservation Area/National Monument includes Bureau of Land Management Wilderness Study Areas and lands with Wilderness Characteristics and U.S. Forest Service Roadless Areas. Vast, remote desert mesas cut by sheer walled serpentine canyons provide

- unparalleled solitude and scenic quality that is comparable to or exceeds those found in nearby national parks and monuments, such as Canyonlands, Arches, Grand Staircase, Natural Bridges, Hovenweep, and Mesa Verde; and
10. Priority Management values to protect within the proposed National Conservation Area/National Monument are: archaeological, wildlife, natural and scenic resources. An essential aspect of the proposed National Conservation Area/National Monument's management is to better protect these resources and to ensure their ongoing and sustainable use; and
 11. Native Americans have unique and important cultural and historical ties to the land, its wildlife and other natural resources; and the Navajo people have traditional ties to this particular landscape for hunting, medicinal herbs, food gathering, firewood gathering and the grazing of livestock; and
 12. Native Americans have shown quality and excellence in managing lands and natural resources to protect the cultural integrity of the homeland of Native peoples; and
 13. These areas are under constant threat of cultural vandalism, looting of Native cultural sites, indiscriminate off road vehicle use that damages areas sacred to Native peoples, energy development footprints that negatively impact lands of historic and cultural importance, and general degradation of wildlife and plant habitats of importance to Native traditional practices; and
 14. To prevent this rapid destruction of lands in the San Juan County region important to Native peoples, formal protection as a national conservation area or national monument is required; and
 15. Formal protection of the area as a National Conservation Area/National Monument will provide important consistency and quality to management of these lands, and define principles of management that will positively affect Native values on these lands in the following ways:
 - A. Protection will be permanent, part of a national system of protected lands that carry strong and clear legal definitions of the primacy of conservation of cultural, historical and ecological values that define Native connections to these lands.
 - B. Protection as a national conservation area or national monument creates important opportunities for Native American co-management of these resources and increased funding for protection with an emphasis on conservation and preservation of the region's cultural and natural resources.
 - C. Protection should be at the largest landscape level possible, providing connectivity of wildlife and plant habitats, ecological integrity of the region and be comprehensive in its protection of Native sacred sites, which cannot be considered out of the context of the larger landscape.
 - D. Protection of the region as a national conservation area or national monument will be a top priority for concerned federal agencies, with public involvement and prioritization of staffing, resources and cooperation with Native peoples.
 16. It is in the best interest of the Navajo Nation to support the federal designation of 1.9 million acres in San Juan County, Utah, as the Bear's Ears National Conservation Area/National Monument. Resolutions in support of the federal designation are attached as Exhibit A.

THEREFORE BE IT RESOLVED, THAT THE NAVAJO NATION COUNCIL'S NAABIK'IYATT' COMMITTEE EXTENDS ITS SUPPORT FOR:

1. The designation of the 1.9 million acres in San Juan County, Utah, as the Bear's Ears National Conservation Area/National Monument.
2. The designation of identified roadless areas as wilderness under the Wilderness Act.
3. Establishment of Collaborative Management Agreement(s) between the Navajo Nation, other Tribes and the federal government to improve management and elevate the Native American voice in the long-term sustainable management of the region.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Naabik'iyáti' 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 15 in favor, 0 oppose, 0 Abstain this 12th day of March, 2015.

Honorable LoRenzo C. Bates, Chairperson
Naabik'iyáti' Committee

Motion: Honorable Alton Joe Shepherd
Second: Honorable Jonathan Nez

Mr. BISHOP. Thank you. I appreciate that. Now I am going to call the Honorable Sean Reyes, who is the Attorney General from the state of Utah. Thank you.

If you have been here before you understand the process. You are recognized for 5 minutes. Go for it.

Mr. REYES. Yes, sir.

**STATEMENT OF THE HON. SEAN D. REYES, ATTORNEY
GENERAL, STATE OF UTAH, SALT LAKE CITY, UTAH**

Mr. REYES. Thank you, Chairman Bishop, Ranking Member Hanabusa, members of the Subcommittee, for inviting me to participate in this hearing. And an additional aloha to the Ranking Member from Hawaii. My mom was born and raised in North Kohala, and I myself spent much time growing up working the land of my ancestors on the Big Island.

In Native Hawaii, our lands are known as aina, and the relationship between the kanaka maoli, or Native people, and the aina, is sacred.

In Utah, we also understand that lands are sacred to many of the indigenous people who predated statehood. And whether it is the sacred nature of lands, language, or children, we are at various times, as a state and local communities, in locked step with the Native American tribes in Utah and their interests.

For example, just yesterday, I spent the morning and afternoon with my dear friends from the Northwestern Band of Shoshone for a sacred ceremony regarding land on Bear River. Council Chairman Darren Parry welcomed me and my team as family, as they have our governor and lieutenant governor.

Perhaps an even better example of cooperation occurred just 2 weeks ago. Chairmen from every council of tribes in Utah, along with the State Director of Indian Affairs, met in my office or joined us by phone to discuss the defense of the Indian Child Welfare Act, or ICWA, from constitutional challenges led by other states. Everyone in the room acknowledged that ICWA was working very well in Utah, due to cooperation between tribal, state, county, and Federal interests. As such, I committed to work with the tribes and their counsel to defeat any attempt to abolish ICWA.

The tribes do not always agree with the state or local communities. After the announcement of President Trump's Executive Order regarding Bears Ears, I heard powerful voices on both sides of the issue from various tribal leaders. And while I do not speak

on behalf of all people for Utah, I think my background and current office qualify me to testify in support of H.R. 4532.

The Subcommittee may know from my written statement that I think we can draw some analogies between the debate over the new monuments in Utah and the Superbowl this weekend. Before discussing these analogies, I want to reiterate that these lands issues are, without a question, much, much more important than any football game. But I do think it is a useful metaphor, and a way of thinking about what is at stake.

First, the Superbowl creates buzz from many voices, but that buzz dies within hours of the game for nearly everyone, except for the teams themselves and their diehard fans. In my view, the debate over the monuments follows a similar pattern. I view the tribal, Federal, state, and local governments as the teams who must manage these priceless lands for the public's benefit. The diehard fans of those teams are San Juan County residents, including many tribal members. These are people who, for generations, have loved, protected, and used these lands for gathering firewood or medicinal herbs, hunting and fishing, ranching or grazing, performing sacred ceremonies, and visiting ancestors' graves.

H.R. 4532 uniquely brings the governments and residents together. It creates councils that give all the teams a voice in how these monuments will be managed, including, for the first time, the vitally important voice of the tribes. This innovation allows the teams to provide custom-tailored responses to the fans' needs, delivers on promises of shared management authority that the prior administration made but did not keep, because such authority must come from Congress. And while it will help governments and residents make the best use of the Antiquities Act's limited power to protect objects, the definite, concrete things, rather than stretching it beyond its text to purport to protect things as ethereal as star-filled nights and natural quiet.

Second, rules are rules, both for football and for monuments. Some of those rules have caused heartburn for locals in Utah, such as the way H.R. 4532 continues to ban extracting minerals from the 1.35 million acres in the Bears Ears designation. But, that is the rule, so any assertion that this bill throws open public land to harmful development is akin to suggesting the Patriots get five downs to go 10 yards: an outright falsehood.

Just as important, the bill establishes funding for new law enforcement officers from local communities, such as for sheriffs and their deputies, to help protect these lands from looting and vandalism. This new or renewed model is a significant improvement over prior Federal enforcement in this region, which has resulted in serious hardships for many local residents.

Despite similarities between the Superbowl and monuments, some important distinctions exist. Above all, in the Superbowl, one team wins and the other loses. But monuments in San Juan County can and should be managed under multiple-use principles that accommodate beneficial uses by all interested parties. In short, when it comes to these monuments, everyone can win. And this legislation will ensure that San Juan County does not become a political football to be repeatedly thrown around by each succeeding presidential administration.

The residents of the county deserve better. This thoughtful legislation would give it to them by codifying what we all want: appropriate monument protections and a cooperative framework to ensure that those designations are managed responsibly for the public's benefit.

Thank you for the chance to testify.

[The prepared statement of Mr. Reyes follows:]

PREPARED STATEMENT OF SEAN D. REYES, ATTORNEY GENERAL OF THE
STATE OF UTAH

Good morning Chairman McClintock, Ranking Member Hanabusa, and members of the Subcommittee on Federal Lands. Thank you for inviting me to participate in this hearing. I'm pleased to support H.R. 4532, Congressman Curtis' bill establishing the Shash Jaa and Indian Creek National Monuments.

As I've considered what to say today, I confess that this past week, my thoughts—like many Americans—have occasionally been interrupted by news and commentary about Super Bowl LII this weekend. And I became struck by some similarities between the NFL's premier game and the debate involving monuments in San Juan County. Without question, the issues we're discussing today are much more important than a football game, but if the Subcommittee will indulge me, I'd like to use the upcoming game as a metaphor to highlight three key reasons why Congress should pass H.R. 4532.

First, the Super Bowl attracts interest and support from many different people and organizations. But the game's most lasting impacts fall primarily on two groups: the teams fortunate enough to play in it and their dedicated fans.

I think this mirrors the debate about national monuments in San Juan County. As I see it, the "teams" are the Federal, Utah, local, and tribal governments with interests in exercising careful stewardship over these stunning lands for all the public's benefit. Utahns, however, have learned that monument designations can make it significantly harder to achieve that goal. If designated without due care for state, local, and tribal interests, a monument can eliminate some of the multiple-use management strategies these governments might otherwise employ to maximize the public's beneficial uses of these lands.

The "fans," in turn, are San Juan County residents—people for whom the teams work year after year, and who have loved, worked on, and protected these lands for generations. These residents depend on access to and use of these lands for a host of reasons: gathering firewood or medicinal herbs; hunting and fishing; ranching or grazing; performing sacred ceremonies; and visiting ancestors' graves, to name just a few. So while die-hard Patriots and Eagles fans may have consumed every tidbit about their teams for their emotional or intellectual sustenance these past few weeks, San Juan County residents use these lands for *literal* sustenance.

As a result, they know the land better than anyone else. They have a vested interest in caring for it more than anyone else. And they are our best source for making full use of the Antiquities Act's power—to protect "objects"—because they know which objects need protecting: antiquities such as Doll House, Moon House and House on Fire. Indeed, compared to San Juan County residents, Hollywood and other special interests are like the corporate executives who will leave Minneapolis this Sunday. They may momentarily celebrate a victory or rail against a defeat, but they face no permanent daily consequences from the monuments' designation. Instead, those daily consequences fall upon the teams and their fans—the governments and San Juan County residents.

Enter H.R. 4532. This bill establishes something unique in U.S. history: monument management councils that give all the teams a voice in land management—including, for the first time, the vitally important voice of the tribes. This innovation allows the teams to provide custom-tailored responses to the fans' needs. And it delivers on shared-management-authority promises that the prior administration made (but did not keep) because such authority must come from Congress.

Second, despite that unprecedented responsiveness, neither the Eagles and Patriots nor the teams in San Juan County can participate willy nilly. Rules are rules. Next Sunday, it's still 10 yards for a first down and a 5-yard penalty for a false start. And in San Juan County, rules will still apply to their public lands. Some of those rules—such as the way H.R. 4532 continues to ban extracting minerals from the 1.35 million acres in the Bears Ears designation—have caused some heartburn in Utah. Any assertion that this bill throws open public land to harmful development is akin to suggesting the Patriots get five downs to go 10 yards—an

outright falsehood. After all, monuments or not, these are public lands. They are not private lands. They are not tribal lands. They will continue to be protected and governed through processes in which all our teams play a role. Just as important, the bill establishes funding for new law enforcement officers from local communities (such as sheriffs and their deputies) to help protect these lands from looting and vandalism. This new enforcement regime represents a significant improvement over prior Federal enforcement in this region, which has resulted in serious hardships for many local residents.

The third point draws on distinctions between the Super Bowl and San Juan County monuments to support H.R. 4532. For example, this Sunday's game is a zero-sum contest; one team must win and the other must lose. But there is no reason that same mentality must apply to monuments in San Juan County. Instead, the management councils that H.R. 4532 establishes should govern these monuments under the same multiple-use principles applicable to other Federal lands. This will accommodate beneficial uses by all interested parties. Because H.R. 4532 gives each team an equal management voice in San Juan County, everyone can win.

Additionally, football fans expect to see the ball repeatedly move from one end of the field to the other. Long scoring drives and booming kicks make for an exciting Super Bowl. But they make terrible politics. My hunch is that the members of this Subcommittee would not approve of land in your districts becoming a political football to be repeatedly thrown around by each succeeding presidential administration. The residents of San Juan County share that same view. They deserve better. This thoughtful legislation would give it to them by codifying what we all want: appropriate monument protections and a cooperative framework to ensure that those appropriate designations are managed responsibly for the public's benefit.

In closing, Utahns love public lands as much as America loves the Super Bowl—maybe more. The well-known disagreements that bring us together today never have been about *whether* these specific lands should be protected; they have been about *how best* to accomplish that goal. H.R. 4532 is a sensible and responsible answer to that question. Congress should pass it with all deliberate speed.

Thank you again for the chance to testify. I'm happy to answer any questions.

QUESTIONS SUBMITTED FOR THE RECORD BY REP. HANABUSA TO THE HONORABLE
SEAN D. REYES, ATTORNEY GENERAL OF THE STATE OF UTAH

Question 1. President Obama's Presidential Proclamation 9558, established the Bears Ears National Monument in response to calls from tribal governments to protect the numerous culturally and historically significant artifacts in the area from widespread looting and destruction, as well as the still present threat of oil and gas interests spoiling the land. The same tribal representatives that worked with President Obama to establish the monument walked away from conversations with the Utah congressional delegation when they felt that their input was not given proper consideration. Mr. Reyes, in your testimony you make two analogies in favor of H.R. 4352 that I would like clarification on.

First, you state that H.R. 4532 continues to ban extracting minerals from the original boundaries of the Bears Ears Monument. You state that this is to maintain consistency with the "rules" established under President Obama's original proclamation to establish the Bears Ears National Monument. Under President Trump's proclamation to modify the Bears Ears National Monument, however, there are no such protections from mineral extraction. So, during the time between the issuance of President Trump's proclamation and the uncertain date in which this bill might be passed, there is a gap during which mineral leases could be issued. In addition, your written statement says that the mineral extraction ban caused "heartburn" for some in Utah. How can the state ensure that the 1.35 million acres of the original Bears Ears designation won't be subject to such developments?

The second analogy that I would like clarification on is the comparison of the Bears Ears Monument designation to a "political football" that is subject to change under each new administration. Typically, national monument designations are not easily or often adjusted. In fact, President Trump's proclamation is currently being challenged in court because the Antiquities Act does not expressly provide the President with the authority to shrink monument designations, so the monument could even retain its original status. H.R. 4532 would interfere with these pending legal proceedings. If you believe that this issue should not be subject to change with each administration do you also believe that this legislation should supersede the courts and challenge a presidential proclamation that took years of planning under the Obama administration?

Answer. The process governing the potential extraction of minerals in these areas is not exclusively a state one. Although the State's Division of Oil, Gas, and Mining (DOGM) can accept mining permit applications, the underlying or surrounding lands are still managed principally by the Federal Government. So, permit holders still need to work with Federal land managers—the Bureau of Land Management or the U.S. Forest Service—before attempting to extract resources. That may explain in part why, as of February 7, DOGM had not received “a single permit application for plots in the areas.” See Joe Deaux, *Bears Ears’ mining rush falls flat as no one bothers to show up*, Salt Lake Trib. (Feb. 7, 2018), <https://www.sltrib.com/news/environment/2018/02/07/bears-ears-mining-rush-falls-flat-as-no-one-bothers-to-show-up/>.

Second, Rep. Hanabusa asked my opinion on whether H.R. 4532 supersedes both President Obama’s original proclamation and the pending court challenges to President Trump’s proclamations. In my view, the Constitution answers this question affirmatively: it gives Congress the express “power to dispose and make of all needful rules and regulations respecting the territory or other property belonging to the United States.” U.S. Const., art. IV, § 3, cl. 2. Because that power resides in the legislative branch, not the executive branch, H.R. 4532 embodies a constitutionally permissible expression of the people’s political will about these lands in Utah.

Mr. BISHOP. Thank you very much. I am now going to ask Mr. John Tahsuda to stand, if you would, please.

He is the Deputy Assistant Secretary for Indian Affairs, Department of the Interior. He will not be giving an oral testimony, but will be here for questions if people want to ask him.

Thank you for being here.

And Casey Hammond, who is the Deputy Assistant Secretary for Land and Mineral Management at the Department of the Interior is here, and he will be testifying.

Mr. Hammond, you worked on this Committee staff for quite a while.

Mr. HAMMOND. That is accurate.

Mr. BISHOP. You forced me to do a whole bunch of things I didn’t want to do, as my staffer.

Mr. HAMMOND. I don’t apologize for that.

Mr. BISHOP. Tables are reversed now. You are recognized for 5 minutes.

Mr. HAMMOND. Thank you very much, and thanks for having me back here. I appreciate it.

STATEMENT OF CASEY HAMMOND, DEPUTY ASSISTANT SECRETARY, LAND AND MINERALS MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR, WASHINGTON, DC

Mr. HAMMOND. Chairman Bishop, Ranking Member, and members of the Subcommittee, I am Casey Hammond, the Deputy Assistant Secretary for Lands and Minerals Management at the Department of the Interior. While today’s discussion primarily centers on Bureau of Land Management issues, this legislation has an important nexus with tribal consultation, engagement, and sovereignty.

Therefore, accompanying me today, as Chairman Bishop introduced, is John Tahsuda, who is our excellent principal Deputy Assistant Secretary for Indian Affairs. We are pleased to provide views on behalf of the Department on H.R. 4532, the Shash Jáa National Monument and Indian Creek National Monument Act.

The Department supports the bill and the efforts of the sponsor, this Committee, and Congress to codify the first tribally co-managed monument. While the Department believes the Antiquities Act has been largely successful in protecting significant public resources, we also acknowledge previous designations may have extended beyond the original purposes of the Act.

Acting upon the recommendation of the Secretary, and carrying the full support of Utah's governor and congressional delegation, President Trump signed two proclamations on December 4, 2017, one of which adjusted the boundaries and management of the Bears Ears National Monument. This bold and long-awaited action was a fulfillment of the President's commitment to restore public lands for generations to come, while correcting past abuses of the Act.

Generally, Congress has plenary authority over Federal land use decisions, particularly in protection of public lands. That is why Secretary Zinke specifically recommended to the President that Congress be asked to "legislate tribal co-management authority, and to examine more appropriate land use designations."

The Secretary also recommended the President work with Congress to develop legislative reforms that require a process with state, local, and tribal governments and communities who would be most impacted by a monument designation. Such reforms would prevent abuses in the future.

H.R. 4532 would appropriately protect cultural and archeological sites, as well as unique geologic features within the smallest area compatible for the protection of those resources.

The legislation also includes a mineral withdrawal within the boundaries of the Bears Ears National Monument, as designated by the 2016 proclamation, and each acre remains in Federal ownership and under Federal management.

A key component of H.R. 4532 is the creation of tribal co-management of the Shash Jáa Monument. The Shash Jáa Tribal Management Council would guide specific uses within the monument, ensuring important tribal cultural traditions can occur, in addition to recreation, grazing, and other activities.

H.R. 4532 also reaffirms and re-establishes the Bears Ears Commission with its same membership and roles, while placing a critical emphasis on providing recommendations to both the council and the Shash Jáa Archeological Resources Protection Unit.

As the President stated on December 4, 2017, "The Antiquities Act does not give the Federal Government unlimited power to lock up millions of acres of land and water, and it is time we ended this abusive practice. Public lands will once again be for public use." H.R. 4532 is a refreshing step toward genuine local state and tribal involvement in the monument designation and management process.

We welcome the opportunity to work with the Committee and Mr. Curtis to further accomplish the goals of this bill. Thank you for the opportunity to testify, and we are happy to take questions at the appropriate time.

[The prepared statement of Mr. Hammond follows:]

PREPARED STATEMENT OF CASEY HAMMOND, DEPUTY ASSISTANT SECRETARY FOR
LAND AND MINERALS MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Chairman McClintock, Ranking Member Hanabusa, and members of the Subcommittee, I am Casey Hammond, the Deputy Assistant Secretary for Land and Minerals Management at the Department of the Interior (Department or Interior). Today's discussion primarily centers on Bureau of Land Management issues; however, the legislation tells an important message about tribal consultation, engagement, and sovereignty. Therefore, accompanying me this morning is John Tahsuda, the Principal Deputy Assistant Secretary for Indian Affairs at the Department. Together, we are pleased to provide views on behalf of the Department on H.R. 4532, the Shash Jáa National Monument and Indian Creek National Monument Act. The Department supports H.R. 4532 and the efforts of the sponsor, this Committee, and the Congress to codify the first tribally co-managed monument.

BACKGROUND

Passed in 1906, the Antiquities Act (Act) authorizes the President to "declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments." The Act states that the President may reserve parcels of Federal land and designate them as a monument, but it also expressly states that designations should be limited to "the smallest area compatible with the proper care and management of the objects to be protected." While the Department believes the Act has largely been a success story for protecting significant public resources, we also acknowledge that past designations may have extended beyond the original purposes of the Act.

In response to strong local concerns about egregious past abuses of the Act, President Trump signed Executive Order 13792 on April 26, 2017, which tasked the Secretary to conduct a review of all presidential designations or expansions of designations under the Antiquities Act since January 1, 1996, that exceeded 100,000 acres, or any others that were made without coordination and outreach to the public. The Secretary, in accordance with the Executive Order, submitted two reports for consideration to the President. The first was an Interim Report specifically addressing the Bears Ears National Monument. The Final Report features an assessment of 27 monuments, which was informed by travel to eight monument sites; dozens of meetings with stakeholders, ranging from tribal, local, and state officials to conservation organizations; and the first ever formal comment period tied to the Antiquities Act.

Acting upon the recommendation of the Secretary and carrying the full support of Utah's governor and congressional delegation, the President signed two proclamations on December 4, 2017, one of which adjusted the boundaries and management of the Bears Ears National Monument. The proclamation resulted in two units within the national monument, Shash Jáa and Indian Creek, which encompass key objects such as Moon House Ruin, Doll House Ruin, and Indian Creek Rock Art. Also included in the proclamation, and consistent with the protection of monument objects, is the allowance of increased public access, restoration of traditional uses, and protection of opportunities for tribal collection of wood and herbs. This bold action was a fulfillment of the President's commitment to restoring public lands for generations to come while addressing public concerns about past designations. The Secretary applauded the President's leadership, stating, "The people of Utah overwhelmingly voiced to us that public land should be protected not for the special interests, but for the citizens of our great country who use them, and this is what President Trump is doing today."

H.R. 4532, SHASH JÁA NATIONAL MONUMENT AND INDIAN CREEK NATIONAL
MONUMENT ACT

Generally, Congress has plenary authority over Federal land-use decisions, particularly to further protect public lands and make other areas available for economically productive uses. This is why the Secretary specifically recommended in his report to the President that Congress be asked to "legislate tribal co-management authority and to examine more appropriate land-use designations." The Secretary also advised the President to work with Congress to develop legislative reforms that require consultation with state, local, and tribal governments and communities who would be most impacted by a monument designation. Such reforms would prevent further abuses in the future. For this reason, the Department supports H.R. 4532, the Shash Jáa National Monument and Indian Creek National Monument Act.

The Department believes H.R. 4532 would effectively and appropriately protect cultural and archeological sites as well as unique geologic features within the smallest area compatible with the protection of those resources. The legislation codifies boundaries for two monument units, Shash Jáa and Indian Creek, based upon the recommendations provided by the Secretary and reflected in proclamations signed by the President on December 4, 2017. In addition to establishing the two units, the legislation includes a mineral withdrawal within the boundaries of the Bears Ears National Monument as designated by Proclamation 9558, which remain in Federal ownership and under Federal management.

A key component of this legislative proposal is the enabling of tribal co-management of the Shash Jáa Monument, which the Secretary specifically identifies in the report submitted to the President. Congressional sanction of this distinctive and collaborative management agreement would facilitate the active participation of tribal entities in the area. Title I of H.R. 4532 establishes the Shash Jáa Tribal Management Council, which is required to develop a long-term management plan for the Monument. The Council is expressly able to establish specific uses within the Monument, ensuring important tribal cultural traditions and ceremonies can occur on the land in addition to recreation, grazing, and wildland fire purposes. This includes specific mention of the management plan including access for sourcing of traditional plants and other materials for subsistence, ceremonial, and other uses. The legislation also reaffirms and re-establishes the Bears Ears Commission with its same membership and roles while placing a critical emphasis on providing recommendations to both the Shash Jáa Tribal Management Council and the Shash Jáa Archaeological Resources Protection Unit.

Title II of H.R. 4532 creates the Indian Creek National Monument and authorizes the Indian Creek Management Council as the entity to manage the Monument. As is indicated in the legislation, the Council is required to consult with state and local entities, the Bears Ears Commission, affected Indian tribes, and the public. The legislation also creates the Indian Creek Archaeological Resources Protection Unit, which ensures the preservation of antiquities, resources, and artifacts within the boundaries of the Monument.

The Department firmly believes that H.R. 4532 is a positive step toward greater local, state, and tribal involvement in the monument designation and management process. We welcome the opportunity to further engage with the sponsor and the Committee on the legislation, including the Department's responsibilities and operations within the scope of the management plan process identified in the legislation.

CONCLUSION

As the President stated on December 4, 2017, "The Antiquities Act does not give the Federal Government unlimited power to lock up millions of acres of land and water, and it's time we ended this abusive practice. Public lands will once again be for public use." The Department supports H.R. 4532, which seeks to maintain the protections of America's public lands and unique antiquities while ensuring consultation with state, local, and tribal governments and communities who would be most impacted by a monument designation occurs. We would be pleased to work with the Committee and sponsor to address certain specific aspects of the legislation to further accomplish its goals.

Thank you for the opportunity to testify today. We would be pleased to answer questions at the appropriate time.

QUESTIONS SUBMITTED FOR THE RECORD BY REP. BISHOP TO MR. CASEY HAMMOND, DEPUTY ASSISTANT SECRETARY, LAND AND MINERALS MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR AND MR. JOHN TAHSUDA, PRINCIPAL DEPUTY ASSISTANT SECRETARY, INDIAN AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR

Question 1. H.R. 4532 would reinstate the 1.3 million acre withdrawal established in Presidential Proclamation 9558, effectively withdrawing the lands removed from National Monument designation. How are these lands currently being managed with respect to appropriation and disposal under the public land laws; location, entry, and patent under the mining laws; and operation of the mineral leasing, mineral materials, and geothermal leasing law?

Answer. These lands are managed according to the 2008 Monticello Resource Management Plan, as amended. These lands were reopened to mineral entry 60 days after the issuance of Proclamation 9681, but are subject to the decisions and stipulations in the 2008 land use plan.

Question 2. In the hearing on H.R. 4532, concern was expressed that public lands removed from Monument designation in the Bears Ears area may restrict Native American access for traditional ceremonies, gathering of plants, and woodcutting. For these public lands, are there any restrictions currently in place for Native American ceremonial access or vegetation gathering?

Answer. No. In fact, the aim of Proclamation 9681 is to restore access threatened by the 2016 action.

Question 3. It is my understanding that approximately one-third of the lands removed from Monument designation in the Bears Ears area already have in place protections associated with Wilderness Study Areas and Areas of Critical Environmental Concern. Outside of WSAs and ACECs, what additional resource protections are in place via restrictions on mineral extraction, rights-of-way, and cross-country vehicular travel?

Answer. Many Federal conservation laws, except for the Antiquities Act, apply to these lands. This includes the National Environmental Policy Act, the National Historic Preservation Act, the Archaeological Resources Protection Act, the Paleontological Resources Preservation Act, the Wilderness Act, the Endangered Species Act, conservation sections of the Federal Land Policy and Management Act (FLPMA) such as those pertaining to ACECs and WSAs, and others. Proclamations 9681 and 9682 reference a number of applicable laws that pertain to the released lands.

According to Proclamation 9681, “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.” Proclamation 9682 contains similar language.

Question 4. As Mr. Hammond’s testimony indicated, the Department of the Interior supports the legislative proposal of actual tribal co-management of the Shash Jaa and Indian Creek National Monuments, as opposed to relegating tribes to a more conventional advisory role. Given its support, what is the Department of the Interior doing to facilitate actual co-management of these important places by both tribes and the Federal Government?

Answer. Congress has the authority to ensure tribal co-management of the Monuments, which is why the Department supports H.R. 4532.

Question 5. What steps has the Department of the Interior taken to implement updates to the National Monuments, per President Trump’s December 4 Proclamation. What sorts of resources has the Department provided to the BLM to ensure that the new Monuments meet the intent of the proclamation?

Answer. The Bureau of Land Management (BLM) officially commenced scoping efforts in January 2018 for the Indian Creek and Shash Jaa units; the Grand Staircase, Kaiparowits, and Escalante Canyon units; and Federal lands previously included in the Grand Staircase-Escalante National Monument that are now excluded from its boundaries. In total, the BLM is working to produce six land use plans and two Environmental Impact Statements. In March of 2018, the BLM hosted four public scoping meetings as part of the land use planning process. The scoping period closed on April 11, 2018. Currently, the BLM is in the process of completing the scoping report.

Mr. BISHOP. Thank you, Casey. We will now call to the witness stand the Honorable Rebecca Benally, who is the Vice Chair of the San Juan County Commission.

Pleased to have you here again, and you are recognized for 5 minutes.

**STATEMENT OF THE HON. REBECCA BENALLY, VICE CHAIR,
SAN JUAN COUNTY COMMISSIONERS, MONTICELLO, UTAH**

Ms. BENALLY. Good morning. Thank you, Vice Chairman Bishop and Ranking Members of the Committee. I think you saved the best for last. Thank you for inviting me to testify today. My name is Rebecca Benally, I am a San Juan County, Utah Commissioner and a Navajo woman. I appreciate the opportunity to make my voice and the voice of the community heard.

In our community, public lands are our most valuable resource. The land is our inheritance, handed down from generation to generation. We treasure the land, we take care of the land.

It is stated that the purpose of the Shash Jáa National Monument shall be to protect, conserve, and enhance the unique important historic, sacred, cultural, scientific, scenic, archeological, natural, and educational resources of Shash Jáa National Monument. I believe that, together, we will accomplish these goals.

H.R. 4532 creates the first true local-tribal management council for a national monument. This legislation is only effective if it truly serves the people, and no group of people has more to lose or gain than the local tribes. No longer will our people be shut out of meetings with their interests and not protected.

H.R. 4532 creates true land protection by creating 10 law enforcement positions to watch over the land with the funded legislation.

H.R. 4532 reinforces that no new mineral extractions will occur, that all Anasazi artifacts, as well as ancestral, cultural, and sacred sites, have been protected and will continue to be protected by 15 regulations and wilderness study areas already in place.

And, most importantly, H.R. 4532 maintains local access. We use the land for hunting, wood-cutting, gathering medicinal plants, and for traditional ceremonies. By creating the Shash Jáa Tribal Management Council, you are giving the Native people the opportunity to manage the land of their ancestors, while working to improve public access and protecting all interests.

The only consistent thing in life is change. Our county continues to develop and grow. The needs of each community member can be met if we work together. We are all from different walks of life, but our vision and needs are the same. By supporting H.R. 4532, you are listening to a group that has been silenced for too long, and finally allowing us a seat at the table. We want land that is well managed and accessible to all people.

It is disheartening for me to hear today in previous testimonies about degrading with derogatory remarks to grassroots people who choose to stand up for themselves and for the local people, the young and old, that they don't mean anything unless there is a title to your name. As I have been taught, a title is only a tool to represent your people. You don't always have to have a title to

represent the grassroots people, so I am very disheartened by those comments to people that choose to stand up for themselves.

It is an honor to be here today. Thank you for listening to the local people. Thank you to the Utah delegation for showing respect to the process, and putting forward a thoughtful and inclusive bill. I believe all lives matter.

One thing that I want to stress here is that there are 567 tribes here in the United States of America. Every step that we step is a sacred site. But let's be respectful, and let's have a balanced approach. Let's think with beauty, harmony, and hozho, as it is said in Navajo, to all approach there is balance.

It is true that the environmental groups and the non-governmental organizations known as NGO had started this process of locking up the Colorado Plateau. And it was 2010, 2012 that Bears Ears of any sort from the tribes had wanted to be part of it. Bears Ears Inter-Tribal Coalition was not developed until around 2015. So, therefore, let's get some information and facts straight here. It is the local people's voice that you need to listen to.

Thank you very much.

[The prepared statement of Ms. Benally follows:]

PREPARED STATEMENT OF REBECCA BENALLY, SAN JUAN COUNTY COMMISSIONER AND
MEMBER OF THE NAVAJO TRIBE

Thank you, Committee Chair and Ranking Members for inviting me to testify in support of House Resolution 4532. My name is Rebecca Benally, San Juan County Commissioner, a member of the Navajo tribe. I appreciate the opportunity for my voice and the community voice to be heard.

In our community, public lands are our most valuable resource. The land is our inheritance, handed down from generation to generation. We treasure the land. We take care of the land. H.R. 4532 is a step to create the first tribal managed national monument. The Shash Jáa National Monument incorporates land within the Bears Ears area. Unfortunately, the former Bears Ears proclamation never mentioned tribal management just an advisory commission. It is stated that, "The purpose of the Shash Jáa National Monument shall be to protect, conserve, and enhance the unique important historic, sacred, cultural, scientific, scenic, archaeological, natural, and educational resources of Shash Jáa National Monument."

The purpose is only worthwhile if it truly serves the people. And no group of people has more to lose or gain, than the local tribes. We use the land for hunting, wood cutting, gathering medicinal herbs and for sacred ceremonies. By creating the Shash Jáa Tribal Management Council, you are giving the Native American people the opportunity to manage the land of their ancestors and maintain access.

By supporting H.R. 4532, you are listening to a group that has been silenced for too long and finally allowing us a seat at the table. We all come from different backgrounds, but we want the same results. We want land that is well-managed and accessible to all people. We support the language of H.R. 4532. We agree that the land should be protected. Currently there are 14 regulation and laws in place, such as:

- 1935 Historic Sites Preservation Act
- 1960/1974 Reservoir Act
- 1964 Wilderness Act
- 1966 National History Preservation Act
- 1968 Wild and Scenic Rivers Act
- 1974 Archaeological & Historic Preservation Act
- 1976 Federal Lands Policy and Management Act
- 1978 American Indian Religious Freedom Act
- 1979 Archaeological Resources Protection Act
- 1980 Amendment-Executive Order Protection & Enhancement of Cultural Environment
- 1990 Native American Graves Protection & Repatriation Act

1996 Indian Sacred Site Protection Act
 2000 Consultation & Coordination with Indian Tribal Government Act
 2003 Preserve American Act

Therefore, H.R. 4532 is a step in the right direction to create the Shash Jaa Tribal Management Council that will benefit the local tribes and groups to work together to manage the land.

It is an honor to be here today. Thank you for listening to the local people, San Juan County, Utah. I also would like to thank the Utah delegation for showing respect to the process and putting forward a thoughtful and inclusive bill.

Mr. BISHOP. Thank you. I appreciate all the witnesses. We will now start a round of questioning. And for Members, if they have a question of a specific witness, we will ask that witness to come up to the table and the microphone and answer that question, and then proceed in that way.

Mr. CURTIS, since I am really new at this job of being Vice Chair, I also realized I didn't read ahead in the script far enough to notice that you were supposed to have been recognized to introduce Mr. Chaffetz. Sorry, I screwed up.

[Laughter.]

Mr. BISHOP. Would you like to take a second to introduce him now, or would you like to ask some questions?

Mr. CURTIS. I will skip straight to questions, although I will agree with him about his comment about him being the most effective legislator in the district's history.

Mr. BISHOP. Just so you stay within the 3rd District only.

Mr. CURTIS. Within the 3rd District.

Mr. BISHOP. Yes, don't go far afield from that. Mr. Curtis, you are recognized first for questions.

Mr. CURTIS. Thank you. I would like to start with Commissioner Benally. If you would, please come up again, thank you.

While she is coming up, I would like to thank her, as well as all the witnesses. I realize many of you have made a great sacrifice to be here today, and I appreciate that.

Commissioner, it may be obvious to a lot of you, but to many of us it is not. Could you explain the difference between the Aneth Chapter of the Navajo Nation, who did previously oppose President Obama's designation, and the Bears Ears Inter-Tribal Coalition?

Ms. BENALLY. Let me preface this before I answer that question. Most chapters of the Navajo Nation, which sits in Utah, and by the way, we are the stepchild to Navajo Nation called the Utah Strip. And the first go-around of support was for a national conservation area. Somewhere along the line it got changed to a national monument when environmental groups and NGOs started getting involved.

So, to answer your question, Aneth Chapter is the largest Utah Navajo local government, called a Chapter House, who has local governance, LGA, on the road to govern themselves, who had opposed a national monument around the Bears Ears region of anything from 1.35 million to 1.9 million acres. So, that is how the government structure is there in Aneth.

Mr. CURTIS. Thank you. Could you help us understand why the two would view this differently, and one support and one not support the bill?

Ms. BENALLY. Can you rephrase your question?

Mr. CURTIS. The Aneth Chapter was pleased with President Trump's designation, but the Navajo Nation opposed it. Can you help us understand why the different views?

Ms. BENALLY. It is very simple. It is the local people that drives the local needs of Aneth, and also of Utah Strip, as is referred to. The difference is that Navajo Nation sits in Window Rock, Arizona, and the local people of Aneth Chapter are about 45 miles from the region we talk about. It is our backyard, and I believe we have done a great job to keep it a pristine area for decades and decades, until someone noticed and wanted to have a deep-pocketed interest in the area for self-serving need.

Mr. CURTIS. Thank you. One of the primary criticisms of this bill has been a perceived lack of tribal consultation. And when I met with representatives of the Bears Ears Inter-Tribal Coalition, they expressed the same concern to me. In the last hearing, we offered to include a requirement that there was a consultation with the Bears Ears Commission when those presidential appointments were made. Do you think this bill provides for adequate tribal input and management of the area?

Ms. BENALLY. There is consultation in Section 101 of BLM. And when BLM tried to contact tribes, there was never a response until starting in 2012. Why the sudden interest? I think you can draw your conclusion: self-serving for NGOs and environmental groups, and forefronting Native American and romanticizing Native American way of life.

Mr. CURTIS. Thank you. I am going to quickly switch to Congressman Chaffetz, if you wouldn't mind.

Former Congressman, you mentioned in your testimony that there were 1,200 meetings. And you emphasized that, yes, there really were 1,200 in what was called the PLI process.

Many view this bill as just a snapshot in time of when I came along just 8 weeks ago. Could you explain why it is really a much longer process? And do you feel like this bill reflects what you learned in those 1,200 meetings?

Mr. CHAFFETZ. Thank you. It did start more than 4 years ago. I personally participated. I got on a plane and, as I said, flew to Arizona to meet with the Navajo President. We had countless meetings, open meetings, meetings that anybody in the public could attend. Some had hundreds and hundreds of people, some were much smaller groups.

I would also give you, for the record, a letter dated October 16, 2015, another letter dated April 29, 2016, another letter dated November 18, 2016, among others that should be, I think, considered. And the other item that I would enter into the record is this "Big money, environmentalists and the Bears Ears story," that appeared in the *Deseret News* on August 4, 2016, which, I think, lays out the issues.

Mr. CURTIS. Thank you. I am out of time.

Mr. BISHOP. Thank you. I appreciate that. Ms. Hanabusa, the Ranking Member, has given me a list of the order for the Democrats to speak.

Mr. Gallego, you get to go first.

Mr. GALLEGO. Thank you, Mr. Chair. It is Gallego, since we are interested in keeping names correct today.

Mr. BISHOP. All right. The gentleman from Arizona and the gentleman from Virginia will be recognized by those names forever more.

Mr. GALLEGO. Thank you, sir.

Mr. BISHOP. Go for it.

Mr. GALLEGO. First of all, I would like to have all the duly elected tribal witnesses, please come to the table, because I will be asking you guys questions. One at a time? That is fine.

Let me thank all the witnesses for traveling to Washington for today's hearing. We are very pleased that we have duly—and I stress the word “duly”—elected representatives from the five tribes here with us to testify about the importance of the Bears Ears National Monument designation for each of your communities.

And I think it is fairly important that we recognize that we are actually listening to those that are elected. In my years in politics, if we had ever done something of this nature, where we skip over the local elected officials and tried to designate other people to somehow voice the opinion of any area, whether it is city, state, county, without actually having a democratic process, we would call that somewhat of a sham. And that is what I see happening here.

So, it is even more important that we really listen, and I mean we really listen, to these duly elected officials, and try to understand what is at stake if the President's proclamation were to be codified.

So, again, only the duly elected officials. As you all know well, the original tribal proposal for the Bears Ears National Monument was 1.9 million acres. Can you tell us about the effort undertaken by tribes to catalog the cultural resources contained in the Bears Ears region? And we can start with President Begaye.

Mr. BEGAYE. Thank you for that question. The Navajo Nation, our people, have been working on protecting this area for over 80 years. This is something that didn't start just a few years back, but this has been in the making from one Navajo Nation president to the next, to the next. We have been trying to designate and protect this area because it has been ravaged by treasure hunters over the years, and a lot of our sacred areas have been desecrated.

And multitudes, many artifacts have been taken from that area illegally, and our sacred areas have been trampled upon. For 80-plus years, our people have worked hard to have a designation of some sort, whether it is a conservation and then the Antiquities Act, what became the avenue of choice for our people.

And this is something that didn't happen just in the last few years, like I said, but this has been ongoing. Thank you.

Mr. GALLEGO. Thank you, President. Because I have a limited amount of time, let me skip to Vice Chairman Tenakhongva.

Specifically, I wanted to talk to you about some artifacts and sites. As you know, the Obama designation was ultimately a compromise that covered 1.2 million acres of the 1.9 million-acre tribal proposal. The bill we are reviewing today retains a monument designation for only 15 percent of that already compromised Bears Ears National Monument.

As you know, Vice Chairman, the perfect kiva site was removed from the monument. What does this mean for this site, and for the hundreds of similar cultural sites that were removed from the Bears Ears National Monument?

Mr. TENAKHONGVA. For the people in here that do practice a religion, the kiva is a church. It is much like your church. And if it was to be removed from the protected sites, it is just like taking our right to practice our religion.

The kivas we practice in today still exist on Hopi. If you look at our letterhead, that is the symbol of our lifeline. That is the reason why it is very important that these sites be protected. We have had cultural connections to these sites since the time we traveled from there, not just in the past 15, 20 years. We still have sacred pilgrimages to these since probably 500 years ago, or before, so that is how we have the connection to these sites.

Mr. GALLEGOS. Thank you, Mr. Vice Chair.

Mr. Chair, the tribes' official record—official record—is clear regarding the full support for the monument designation. We, as a Committee, need to find ways forward to honor our promises to our duly elected official tribal members, including meaningful consultation, not sham consultations, when making designations and decisions of this magnitude.

Again, I thank all the witnesses, and I yield back my time.

Mr. TENAKHONGVA. Thank you.

Mr. BISHOP. Thank you.

Mr. Tipton.

Mr. TIPTON. Thank you, Mr. Vice Chairman. Could I have Ms. Lopez-Whiteskunk come up, please? Thanks for taking the time to be able to be here. I listened to your testimony, and appreciate all that came here today, and wanted to be able to touch on a couple of issues that you had brought up.

First was in regards to the cultural preservation. As I have read through this bill, to the President's comments, over into Utah, in terms of making sure that those areas are actually protected, there are going to be additional people, which were not included under President Obama's designation, to actually be there to be able to protect those artifacts. And areas that are not included in President Obama's designation, I believe—correct me if I am wrong, if you have read this differently—that those are still part of the National Park Service system, or National Forest Service system with the protections, and wilderness study areas, with significant protections for those cultural areas that need to be able to be protected.

If you could maybe explain—and I don't expect you to be able to give me a specific location—what other protections would you like to be able to see?

Ms. LOPEZ-WHITESKUNK. Thank you, Congressman. I appreciate your question. In regards to the previous proclamation, a little bit of that is untrue, as many tribes have sovereign voices and they have capabilities and resources that a lot of local governments don't always have that the Native American tribes do.

When we initially came to the table, we came as being problem-solvers. We came to be a part of the solution. And one of the solutions was to be able to have the capacity to add that type of

resource to protecting those areas. Native tribes have Public Law 638 at our resources, which local agencies don't—local governments do.

And that was one of the things that we wanted to be a part of. We wanted to be a part of being able to provide additional——

Mr. TIPTON. That is more, actually, in terms of some of the consultation end of it. What I was speaking to specifically was your first point, in terms of some of the cultural resources. Are there additional things, given the expansive nature, I think, of more people, and the protections that are there, that you would like to be able to see, specifically?

Ms. LOPEZ-WHITESKUNK. Life itself. That is the biggest cultural resource. And the people in the area, to be able to conduct ceremonies and collect those additional herbs that are medicinal to our ceremonial conduct.

Mr. TIPTON. So, being able to have access, actually, to the land.

Ms. LOPEZ-WHITESKUNK. To continue to harvest cedar, sage, and other medicinal plants.

Mr. TIPTON. Is there something in the bill that prohibits that?

Ms. LOPEZ-WHITESKUNK. No. But you know, as we shrink it, and as it becomes a little bit more limited, and with possibilities of energy extraction, then those would also begin to limit that, especially destroy it.

Mr. TIPTON. Great. I would like to be able to move on, really, to the second topic that you had brought up and some others had, as well, in terms of actually being able to have what you were just addressing, actual tribal input into it.

As I am sure you are aware, under President Obama's designation there was no additional tribal input. That was just an advisory capacity. It actually takes an Act of Congress and a presidential signature to be able to get that real input.

I believe that, under the proposed monument in Mr. Curtis' bill, that is going to be structured. Are there any other improvements, in terms of how people are going to be picked, that you would like to maybe be able to address?

Ms. LOPEZ-WHITESKUNK. Under H.R. 4532, it takes that extension of the arm of each tribal sovereign government to be able to appoint that. That takes away a little bit of the sovereign voice and ability to appoint our experts, our traditional leaders who have that knowledge, which I beg to differ that I don't think that the President or the delegation has that knowledge of who are those experts within the tribal nations to be able to provide that voice and adequate information so that it can be presented in a meaningful manner.

Mr. TIPTON. So, if you saw some of that adjusted to be able to get that real input, because that is really the challenge, I think. Under President Obama's designation, there was no real voice that was given. This is actually going to be able to try to create an avenue for the tribes to be able to have real input going into some of those management issues. Would you see that as a positive?

Ms. LOPEZ-WHITESKUNK. I would. If Congressman Curtis had approached the tribes in getting some of that input initially, probably some of this wouldn't be so problematic today.

Mr. TIPTON. Thank you. Out of time, Mr. Chairman.

Mr. BISHOP. Thank you. All right.

Since I am screwing up every name, Ms. Tsongas, you are recognized.

Ms. TSONGAS. You got that one right.

I want to thank all of our witnesses for traveling across the country to be here with us today. It was actually nice to see Mr. Chaffetz again, although he spent some time in Massachusetts, and I asked him if it had any impact, and he said whatever impact it had he shed quickly when he made his way back to Utah. But nice to see him here.

Witnesses, your testimony today has been critical to making sure that we here on this Committee have a comprehensive understanding of the impacts of H.R. 4532. And as today's testimony demonstrates, for years tribes have been seeking permanent protections for Bears Ears and the thousands of artifacts and sacred sites found in the area. These are public lands that belong to all Americans, and I strongly agree that they should be permanently protected for the use and enjoyment of future generations. These things are very fragile, and it takes a concerted effort to do that.

As such, this Committee has considered several different proposals over the years on the best way to provide permanent protections to these lands, including Chairman Bishop's Public Lands Initiative, the Bears Ears Inter-Tribal Coalition's proposal for a national monument, and now H.R. 4532.

But like the Public Lands Initiative, I am opposed to H.R. 4532 because a close examination of the so-called conservation provisions demonstrate a clear pattern of loopholes, rolled back protections, and an undermining of Federal land management authority, all of which threaten the long-term conservation value of Bears Ears and the protection of these lands for all Americans.

The national monument designated by President Obama in close consultation with the Bears Ears Inter-Tribal Coalition, I believe, is the best way to protect these areas. And President Trump was wrong to abolish the monument. The legislation before us today fails to adequately restore these much-needed protections for these lands.

So, turning to Ms. Lopez-Whiteskunk, if you could, come up to the table.

We have heard some testimony on this, but the tribal proposal to establish the Bears Ears National Monument stemmed from concerns about looting and other damage to sensitive cultural resources. We have heard that reinforced. Does H.R. 4532 adequately address this, in your view?

Ms. LOPEZ-WHITESKUNK. No. I believe that, with further discussions with the sovereign nations—and not just the two that are recognized within this, but there are many. There are not just the five members of the Coalition that are affected. There are tribes, the San Juan Southern Paiute, there are many other tribes that also need to be brought into the discussion.

Just because they do not and are not represented within the Coalition, there are other sovereign nations out there that will stand up and they will justify and they can talk about the protections that are desperately needed, not only just on the land, but beneath it, because the story truly lies in the many layers, the

layers of history that are written on the canyon walls, in the land, in the water, and the air that we breathe. That is an honor. That is something that is far bigger than we are. That comes from our creator and Mother Earth.

Ms. TSONGAS. Another provision of the bill, Section 107, establishes an archeological resource protection unit, and it requires a minimum number of law enforcement to patrol the monument. Will this be enough to limit looting and address the resource protection concerns you have expressed?

Ms. LOPEZ-WHITESKUNK. Looting is always going to be an extreme concern. And no matter how many people we get out there, if there are 7 or 10, are we going to have those 7 or 10 after hours, when a lot of the vulnerable time period comes? Because we all know not everything happens in the daylight. It is usually going to happen after dark. Are those resources going to be available after the sun sets? That is usually when things tend to happen.

We would very much like to see more. Of course, we would always like to see more money invested in the protection of this, and to have more boots on the ground.

And as I mentioned before, I think if we would just come together with the tribes to see what they can bring to the table, and become a part of the solution, some of the issues that are at stake within the bill wouldn't be so problematic.

Ms. TSONGAS. In your view, why was the national monument established by President Obama the best way to protect these sacred sites and artifacts, even as you are looking at ways to strengthen this bill? Why was the national monument designation by President Obama the best way forward?

Ms. LOPEZ-WHITESKUNK. Time. Time is everything. If we would have went the congressional route and came through Congress, we would still be seeking some protection. But through the Antiquities Act, it allowed for us to be a part of an open process. Thank you.

Ms. TSONGAS. Thank you.

Mr. BISHOP. Mr. Gianforte.

Mr. GIANFORTE. Yes, thanks, Mr. Chairman.

Mr. Chaffetz, if I could.

Thank you all for being here. I appreciate your testimony.

Mr. Chaffetz, Federal lands limit the funding. You talked about this, just 8 percent in San Juan County are eligible for property taxes that generate the desperately needed money to fund the schools there in the county. How has only having 8 percent non-Federal land affected the schoolchildren of San Juan County? And how does the San Juan County school system compare with the school systems in the rest of Utah and the rest of the country?

Mr. CHAFFETZ. Any quick visit to San Juan County, and you would quickly find out that getting to school is a major production. You cannot even always move the buses to get there. Once you do get to the schools, you understand that they aren't the best that we can possibly provide.

Also, for the residents of San Juan County, the highest per-capita property tax in the state of Utah is down in this part—not in Salt Lake City, not in Provo, Utah, but down in San Juan County, the highest per capita. And again, you are talking about a swatch of land that is roughly the size of New Jersey.

And I do want to address what the congresswoman from Massachusetts talked about with law enforcement. You have, essentially, one BLM officer for every 1 million acres. What Congressman Curtis is trying to do is to up the number of people that are able to patrol and protect. If you don't do anything, and you shoot down the bill, guess what? You are still going to have one person for every 1 million acres. It is ridiculous. It is not a formula that can succeed.

Mr. GIANFORTE. I have just one followup. We heard some testimony today that some voices hadn't been heard, and yet you said you had 1,200 meetings. Were tribal members represented at any of these meetings that you had?

Mr. CHAFFETZ. Yes, consistently.

Mr. GIANFORTE. And what steps did you take to actually reach out to the Native American community to make sure their voice was heard?

Mr. CHAFFETZ. Via the governor of Utah. I went to great lengths to get the state plane to go visit the President of the Navajo Nation. We had an ongoing dialogue. I have had members of the tribes come to visit me in my office. I have done meetings in San Juan County. I have been to hotels where they have come in small groups to meet with us. There were public meetings that were available.

And we really relied on Rebecca Benally, who is from the Navajo Nation, a Democrat who is on the San Juan County Commission, to also engage in the dialogue.

Mr. GIANFORTE. So, 4 years, 1,200 meetings, many outreaches. You believe their sentiments and input are reflected?

Mr. CHAFFETZ. Yes. And, by the way, at the time, the five Members and then the six Members of the Utah delegation asked to meet with President Obama to talk about this. He would never, ever even take one meeting on this.

Mr. GIANFORTE. OK.

Mr. CHAFFETZ. So, to suggest that there was not a dialogue, you can point to President Obama. He never listened to us.

Mr. GIANFORTE. Thank you very much. I would like to have Commissioner Benally, if I could.

Thank you for being here, especially for your local perspective. I want to ask about tribal management of a national monument. This is going to create a new precedent for us. Considering that you are not only a commissioner, but also a member of the Navajo Tribe, what does meaningful co-management mean to you and your community?

Ms. BENALLY. Meaningful tribal co-management means to me that the local people have access to carry on their daily way of life. So, meaningful, just meaning that there is dialogue, communication, participation, and access.

Mr. GIANFORTE. OK. Do you think that this bill is going to provide a path forward to preserving the historical and cultural uses of the land within the monument designation?

Ms. BENALLY. On top of the 15 regulations and wilderness study areas, you bet it will.

Mr. GIANFORTE. So, you think we have enough rules?

Ms. BENALLY. Government is about layers of bureaucratic laws and regulations.

But I want to mention this. As was mentioned, for 80 years, at least for the Navajo Nation to be involved in this, this was just sent to me today. Between 1994 to 1997, Navajo ancestral and aboriginal rights were sold for about \$12 an acre, and was put into the Navajo Lands Claim Fund. So, if you sell your rights, then you want it back years later, how does that work? I don't know.

Let's talk about sovereignty. Sovereignty for Native Americans, as we see it defined, is the domestic dependent nations, and then freedom of speech.

Mr. GIANFORTE. Thank you for being here today. Chairman, I yield back.

Mr. BISHOP. Thank you.

Mr. Lowenthal.

Dr. LOWENTHAL. Thank you, Mr. Chairman. And thank you to all the witnesses for being here. It is good to see my former colleague here, the leading spokesperson for the 3rd District of Utah, Mr. Chaffetz.

I would like to also thank the Chairman for granting the Democrats' request for a second hearing, with today having the representatives of all five tribes that are impacted by H.R. 4532. I think this balanced approach has allowed us to correct some of the misinformation that we heard in the first hearing that still exists surrounding the level of tribal support for this bill.

This bill, as I said over and over again at the last hearing and I will say it again today, we should not be considering. It codifies President Trump's illegal decision to eliminate the Bears Ears and replace it with two drastically smaller monuments, leaving thousands of acres and critical cultural and natural resources within them unprotected. We are now engaging in a process to not protect over a million acres that had been protected by President Obama.

We have also heard a lot about tribal management councils, but they are not appointed, the tribes have no say. The President appoints, with the support of, or the authorization of, or working with the Utah delegation, individual people, not sovereign tribal leaders appointing their own people. What we have in this bill is not tribal management, but management by the President and picking people that the President wants.

And then, worst of all, as we have heard, this was done without any input from the tribes, whose sacred land it purports to protect. So, we are not listening to the people, we are going to protect it for them.

But the message that we have heard from the tribal leaders, which I want to amplify, is that there is an overwhelming amount of support for the Bears Ears National Monument, as designated by President Obama, and strong opposition to the legislation before us today. Tribal leaders could not be clearer: H.R. 4532 is not wanted.

I have some questions that I would like to ask Ms. Regina Lopez-Whiteskunk. I would also like the answer from the Honorable Russell Begaye from the Navajo, if you could just come up and answer.

Mr. BISHOP. Which one do you want first?

Dr. LOWENTHAL. I will ask Mr. Begaye.

Mr. BISHOP. President Begaye, please.

Dr. LOWENTHAL. At the first hearing, we heard a lot of concerns about access in the Bears Ears National Monument, as proposed, that there were real problems with access, some of the people said, for gathering of wood and medicinal herbs. And these concerns were held up as justification for President Trump's, I think, illegal elimination of the monument.

Are you aware of any restrictions that were in the Bears Ears National Monument that limited access for traditional activities, like gathering of wood or medicinal herbs? Do you know of any that were in the Bears Ears?

Mr. BEGAYE. There are none. In fact, on an almost daily basis we have Navajos, even today, that drive up into the Bears Ears area to gather firewood. You see evidence of people doing that on a regular basis, and people go out there to gather medicine, to do prayers, to do ceremonies, and those types of things. Before the designation, at a meeting, for example, one of the towns where we were told by a town's local people that this was not our land, that we need to stay on Navajo because that belonged to us and not to our people.

So, the restriction, after the designation came, there were none. We can go out there today and do the things that we have done before, which is to gather firewood, to gather herbs, to do our prayers, our ceremonies. Those restrictions are not there. And the protection, the designation is 1.3 million. With this new bill, it will limit only to certain areas, and not covering many of the other sacred areas. We will not be allowed to do that. Thank you.

Dr. LOWENTHAL. Thank you, and I yield back.

Mr. BISHOP. Thank you.

Mr. Thompson.

Mr. THOMPSON. Chairman, thank you. Actually, my first question is for my former colleague and classmate, Congressman Jason Chaffetz.

Congressman Chaffetz, good to see you, pleasure to have you back in Washington. This week, we discuss again the designation of the Bears Ears National Monument and the negative affects it has had on local populations, and more specifically reflect on where this was driven from and how much local input was a part of this discussion.

Congressman, in your testimony you mention the 1,200 meetings that Chairman Bishop and you conducted over the years with local populations and interest groups. What were you able to learn from these meetings with regards to local management? And how will the tribes manage this land differently than, say, the Federal Government?

Mr. CHAFFETZ. Well, I do believe, in principle, that if you want the best result, you are going to look to the people at the most local level. That includes a broad cross-section and that is where I believe in multiple use and the access that people wanted.

There are some parts where we should not be doing oil and mineral extraction. But I want to remind the Committee that it was Federal land before President Obama designated a national monument. And President Trump, I think, made the right

decision—I would have eliminated all of it—but when he made the decision to shrink it, it still has the Federal land and the Federal protection.

What you worry about is the management plan that gets layered on top of a national monument. That is where the concern comes, because then you are managing the land for a certain purpose, as opposed to a multiple-use type of purpose. That is what causes the uncertainty within the community.

And I would also remind everybody that none of the designation of the national monument under President Obama happened on tribal lands. The reduction does not affect what has previously been designated as tribal lands. But what Mr. Curtis' bill is trying to do is put more input that was not there before.

So, there is a net increase, there is a net improvement in the tribe's ability to meaningfully communicate their desires, wishes, and beliefs on how that land should be managed. That is a net increase in their ability to participate in the management of those lands. It is a huge win for the tribes and the local communities.

Mr. THOMPSON. Thank you.

And, Chairman, if I could, my second question is for Commissioner Benally.

Commissioner Benally, thank you for being here. I just want to follow up. In your testimony, you have talked about and you have responded to questions about the special appreciation and respect that the Native American community have for the public lands. Can you explain further why local Native Americans who have lived in this area for generations are best suited to care for and manage the land?

Ms. BENALLY. Very simple. I think they did a good job up until 2012, when there was an interest and a pristine situation. Yes, there was some looting. But the local people are the best people to manage the land because it is in our back yard, we use it on a daily basis. And Navajo families use it not only for wood cutting, heating homes, cooking, but also for small economic ways, because they turn around and sell it. That is a little income for them.

So, as was mentioned, how does this monument hurt the people? It hurts the people that wood cutting would be cut off because there is a difference between gathering and wood cutting. Just a few miles down the road from the Bears Ears Buttes is Natural Bridges. And right there, there is a huge sign that says, "No wood cutting." So eventually, that is what it would do.

And just talking about the disadvantages of a monument under the BLM and the U.S. Forest Service, within the last 2 to 3 years there has been an average, on an annual basis, of six to seven roads being closed. These are roads that are vital to wood-cutting, to medicinal plants, and to ceremony practices, so, yes, it is a detriment. And this comes from BLM and the Forest Service currently, and it limits to no access.

Mr. THOMPSON. Thank you very much.

Thank you, Chairman.

Ms. HANABUSA. Thank you, Mr. Chairman. I would like to have Clark Tenakhongva come forward. And as he is coming forward, I would just like to make a statement.

As some of you may know—and I know that the good attorney general, the former North Kuhala resident, is very well aware—the sailing, the voyaging ship, the Hokule’a from Hawaii just completed its around-the-world voyage in what was culturally exactly what they sailed with. And it really showed the ability of Native peoples to voyage the world and to answer some questions about where we are from.

When I read Clark’s testimony on the Hopi, I was struck by a very similar situation, and that is the migratory and, really, the journey that the Hopi people have been on. And it is, of course, to fulfill their religious goal, for lack of a better description, of the Earth guardian telling them to move to the Earth’s center.

However, part of that voyage, or part of that journey, took them through Bears Ears. And that is when, in his testimony and on the slides that he showed, you saw the kavi and a very different type of—for lack of a better description, to me—very culturally significant and religiously significant structures that the Hopi left along the way.

So, Clark, if you would address for us, first, the kavi, which I believe is your religious structure. And what does H.R. 4532 do in relationship to those areas that you spoke to, as opposed to the original monument designation?

Mr. TENAKHONGVA. My understanding of H.R. 4532 is that it will not protect what is there as rightfully the right of the first people, which I would say honorably and humbly, is the Hopi people. We were there first, along with the other Pueblo nations, so it is our covenant, our agreement, just like the non-Natives pray to a man named God and Jesus, our creator’s name is called Maasaw. That is who we made the covenant with, in order to make these travels to where we are at today.

I made this travel all the way here to your empire, which is the White House, the Capitol of the United States. And I would hope you understand that where we make those standings, they are in southern Utah. That is something that is very important to us.

H.R. 4532 would not protect it, because this part, what we showed, the kiva is what we call it. The word itself is very symbolic. It means the womb of your mother. Much like a church would, it has its purpose, the religion that we are practicing today.

As in my testimony, I said please come out and join us. The kivas are still existent in the 12 villages. We still practice what we practiced there, at Bears Ears.

For many of the other tribes, they have connections to that location, also. For me, personally, our clan, the Tobacco and Rabbit clans, were one of those peoples that may have constructed those buildings there and left it there for this reason.

It is sad to say that some people just don’t understand that we left those as evidence, as markers, way before the arrival of Columbus and the pilgrims here, in the United States. Please respect why we left them. Money is money, life is more important than money. We can continue to argue about prospering in this Nation, but respecting one another’s rights and religion is all we ask for. That is all I am asking for, what my advisors, what my elders advise me before I make this travel here. Thank you.

Ms. HANABUSA. Thank you. I yield back, Mr. Chair.

Mr. BISHOP. Thank you.

I will go last.

Mr. Grijalva.

Mr. GRIJALVA. Thank you, Mr. Chairman. I just want to say that the first session that we had, the earlier hearing this month, both the Governor and Representative heard us mention that the decision to abolish Bears Ears was not motivated by mining or oil or gas interest. They pointed out the fact that H.R. 4532 restores the mineral withdrawal for the entire region established by the original designation. And it was great to hear the Governor and the congressional delegation of Utah understand the importance of protecting cultural and religious resources over commercial development. But I am really concerned that we need to do much more.

Friday marks 60 days since Trump scrapped the Bears Ears Monument, and the original mining withdrawal is scheduled to vanish on Friday. So, that means that while Congress debates this controversial piece of legislation, and the courts wait to rule on Trump's decision, the whole area is open for speculation by big oil and foreign mining conglomerates, and I think this situation can only be addressed by swift action by the Secretary.

I have sent a letter to Secretary Zinke requesting an emergency withdrawal, and that letter is available for any and all members of this Committee to sign on.

Mr. Chairman, I would request unanimous consent that the letter be entered into the hearing record. There is no objection?

Mr. BISHOP. No objection.

Mr. GRIJALVA. Thank you for the formality, sir. I appreciate it.

Let me just thank all the witnesses that came, the tribal leadership that is here present from the nations, and thank you very much for the effort to be here and to provide a point of view that was absent.

If I could ask Mr. Begaye a couple of questions. President Begaye, if you don't mind, sir?

Mr. President, at the Subcommittee hearing on January 9, we were told by Members of Congress, our Chairman, and other members of this Committee on the Republican side that the Curtis bill was supported, that the Aneth Chapter supported it, and that local people are opposed to the Obama designation.

Let me ask you. I understand that Navajo support, in San Juan County, Utah, is nearly unanimous. How do we explain that?

Mr. BEGAYE. When you talk about Utah Navajos, it is a whole region. From Navajo Mountain, we have a Navajo chapter there. You have Mexican Water, that are partially in Arizona and other parts of it are in Utah. You have Red Mesa, where the chapter is in Utah, many of the members of that chapter live in the Utah area. TeecNosPos Chapter is in Arizona, but along the border, but their members also live in Utah. Aneth is up in the Montezuma Creek area.

Every chapter at one time voted to support the monument. The first vote, second vote at the Aneth chapter, the president of the Aneth Chapter has come out and said, "I support the monument." If there was a vote taken today, I believe the Chapter would vote for the monument.

Mr. GRIJALVA. Mr. President, does the witness, Ms. Benally, represent the Navajo Government in this question of this legislation, Bears Ears, the original designation?

Mr. BEGAYE. She is a county commissioner and not a Navajo Nation official. We appreciate her election to that position, but a re-vote needs to really take place, where the court has ordered that a re-vote for commissioners take place in that part of Utah.

Mr. GRIJALVA. OK.

Mr. BEGAYE. And it needs to happen, rather than the Commission trying to stop it. So, that is where our focus should be, and I am asking Representative Curtis to put his effort and energy there.

But, over 90 percent of Utah Navajos support the monument. Thank you.

Mr. GRIJALVA. Thank you very much.

Mr. Chairman, I want to forward to the witnesses additional questions for the Committee, we didn't have enough time. Thank you.

Mr. BISHOP. Thank you. Let me ask the last set of questions here.

Casey, I need a wonk, so would you please come forward? I just want to make sure of a couple of things, as we go through, on these issues of protection and influence.

All right. When President Obama created the Bears Ears Commission that these groups can appoint, what power did they have? What was their job to be?

Mr. HAMMOND. The way I read the proclamation, it was to provide advice.

Mr. BISHOP. Advice, all right. Is there anything in that proclamation that required the BLM to acknowledge and actually follow their advice?

Mr. HAMMOND. No, there is nothing that required them.

Mr. BISHOP. All right. In this bill that is being produced, is that Bears Ears Commission appointed by the tribes still in existence?

Mr. HAMMOND. It is still in existence.

Mr. BISHOP. And they are there to give advice?

Mr. HAMMOND. That is accurate.

Mr. BISHOP. We made a change, though, because there also is a council. If the council does not accept the Commission's advice, does the council actually have to do something?

Mr. HAMMOND. By my read of the legislation, they have to respond in writing.

Mr. BISHOP. Which is not happening. It did not happen in the proclamation, it did not happen in the status quo.

So, the Commission still exists, the tribes still appoint their commission. They still give advice. But in his bill, it requires the council that makes the management decision, the council has to respond and tell them why they didn't.

In our original talk about the PLI, we decided to have that concept in there, simply because we cannot allow somebody who gives advisory opinions to tell the government what to do unless you change the statute in some particular way.

So, here is the bottom line. The council, then, does it make mandatory decisions that have to be followed by the BLM?

Mr. HAMMOND. By my read of the legislation.

Mr. BISHOP. And that doesn't happen in President Obama's commission, does it?

Mr. HAMMOND. No.

Mr. BISHOP. This is the only way you can actually have that kind of input taking place. Can I have you switch? Chaffetz, if you will come up just for a second.

You talked about protection very quickly. How many people before Obama's proclamation were there to protect that area? In Obama's proclamation, how many people were added to the protection of that area?

Mr. CHAFFETZ. Zero.

Mr. BISHOP. In his bill how many people are added to protection of that area?

Mr. CHAFFETZ. A lot more than zero.

Mr. BISHOP. And did they go home late at night when the business is over, or are they supposed to be there 24/7?

Mr. CHAFFETZ. They are supposed to be protecting it 24/7.

Mr. BISHOP. And are they contracting with local officials, so they will be there in that particular area?

Mr. CHAFFETZ. They should be.

Mr. BISHOP. Is that more protection than Obama made in his proclamation?

Mr. CHAFFETZ. A lot more protection.

Mr. BISHOP. Did we have conversations with the Inter-Tribal Council?

Mr. CHAFFETZ. Yes.

Mr. BISHOP. Were they late-comers to the process?

Mr. CHAFFETZ. Yes.

Mr. BISHOP. Did we get a letter in 2016, which I will put into the record, in which we asked for draft advice and concepts, especially on this issue of governance?

Mr. CHAFFETZ. Yes, we did.

Mr. BISHOP. And did that letter tell us they weren't going to give us anything?

Mr. CHAFFETZ. Correct.

Mr. BISHOP. OK. Let me have Rebecca Benally come in for my last 2 minutes.

You answer one-sentence answers very well, Jason. Thank you for that.

[Laughter.]

Ms. Benally, you were asked—no, actually, President Begaye was asked—if there were restrictions in either the bill or the Obama proclamation about local—especially wood gathering, wood cutting, herb gathering, that kind of stuff—if there were restrictions in the proclamation. And your answer was—or President Begaye—there were no restrictions. That is correct, right?

Ms. BENALLY. [No response.]

Mr. BISHOP. There were no restrictions in the proclamation, per se. But the question I have for you, were there protections specifically put in the proclamation that would guarantee these activities would take place in the future? Or was it left to a future BLM land manager to do whatever he or she wanted to do?

Ms. BENALLY. No. No, sir.

Mr. BISHOP. All right. In his bill, are there specific protections put in there to guarantee these traditional activities by those who live near that area will continue?

Ms. BENALLY. Yes, sir.

Mr. BISHOP. And in his bill—as you talked about those road closures—if you have a management council that actually has the power to make decisions, could you impact those road closures?

Ms. BENALLY. Absolutely.

Mr. BISHOP. And you can't do it now?

Ms. BENALLY. No, because—

Mr. BISHOP. And you couldn't do it during the proclamation?

Ms. BENALLY. No.

Mr. BISHOP. There is a net benefit that comes here. The Bears Ears Commission in which the tribes can appoint members still exists in his bill. And they still give advice, which is what they were doing in the proclamation, advice. But it has a specific purpose in here, in having a council that can make decisions, and they have to respond to those commissions, and they actually can tell the BLM exactly what to do in the future. That is the difference.

Ms. BENALLY. Correct. Bears Ears Commission is still intact in H.R. 4532. What is new is that the tribal management council will have true authority and can still listen to the Bears Ears Coalition. If there is a disagreement, it has to be put in writing back to the Commission.

Mr. BISHOP. Thank you, I appreciate that. Key bottom line is there will still be a commission appointed by the tribes, there still will be a council that actually has some real ability to do something. Never happened, it will happen in the proclamation.

I appreciate the witnesses for traveling from all over the place, from Arizona, from New Mexico, from Colorado, and from Utah, for actually being here so we can talk about this. I appreciate the Members for being here. And, as you can traditionally see, one of the problems we have in hearings is that no one is here at the end to actually hear anything that is going on. But it is in the record, so any policy wonk that actually wants to read this stuff can do so in the future.

Congressman Chaffetz, it is nice to see you back here again. I appreciate you coming here.

Attorney General Reyes, thank you. Now I want to ask you a question. Do you want to say hi? All right, the question. Eagles or Patriots, and your spread?

Mr. REYES. Eagles.

Mr. BISHOP. OK, the rest of you go on and make money. Hit him up afterwards, and you can do that.

Commissioner Benally, thank you for being here.

Members of the Department of the Interior, thank you.

And for the representatives of the five tribes that are involved, thank you for being here, especially President Begaye. Thank you, as the head of the Navajo Nation, for actually being here.

I thank you. I want to remind you there may be additional questions that Members have. Under our Committee Rule 3(o), members of the Committee can have written questions within 3 business days following the hearing if it is given to us by 5:00 p.m., and the record will be open for 10 business days for your responses.

So, we may be hitting you up for additional written comments to be put as part of the hearing record.

Raúl, do you want me to be snarky, or not? OK, then I won't say anything about the letter. But I will sign the letter as soon as you vote for his bill.

[Laughter.]

Mr. BISHOP. With that, thank you for being here, thank you for your presence. I appreciate all of that. Thank you for putting up with me. I know you would rather be here with McClintock, and I am actually ticked at him that he is sick right now, because I wanted to just enjoy this hearing.

With that, thank you for everything, thank you for being here. I appreciate your time, I appreciate the witnesses.

This Subcommittee is adjourned.

[Whereupon, at 12:21 p.m., the Subcommittee was adjourned.]

[ADDITIONAL MATERIALS SUBMITTED FOR THE RECORD]

CONGRESS OF THE UNITED STATES,
WASHINGTON, DC 20515

February 22, 2013

Utah Land Office/Navajo Land Department
C/O Commissioner Kenneth Maryboy
P.O. Box 410
Montezuma Creek, UT 84534

Dear Commissioner Maryboy:

Public lands are valued across the state of Utah. These lands support a range of uses, including recreation, solitude, wildlife habitat, historical uses, and resource development. However, the history and management of the public lands in Utah is long on episodes of contention and conflict, and short on examples of compromise and consensus. For decades, unsettled land-use designations have fueled distrust and acrimony. Much of the debate has centered on a false choice between multiple-use or land conservation. I reject this either-or proposition. Conservation and multiple-use can coexist. They each have an important role in making our state healthy, inviting, and thriving. Much of the long-term success of counties, tribes, and other stakeholders depends on both balanced conservation and responsible development and use.

The existing gridlock and land ownership pattern has created countless problems between state, tribal, and federal interests. Nearly 120 years after statehood, most Utah landholdings (school trust lands) still exist as a checkerboard pattern of isolated square-mile sections surrounded by federal lands. The small size of the individual state school sections and their location within the federal estate preclude the state from effectively managing its lands or from realizing their full potential for the school trust, the purpose for which the lands were originally granted.

After observing and participating in the public lands debate for many years, I believe we are in the midst of a paradigm shift. There is a growing consensus that a more reasonable, balanced use of the public lands can be achieved in Utah. Through conversations with county and state officials, tribal leaders, conservation groups, industry, non-governmental organizations, and the public, I believe Utah is ready to move away from the tired arguments of the past. We have a unique window of opportunity to end the gridlock and bring resolution to some of the most challenging land disputes in the state.

In order to strike an appropriate balance between conservation and responsible development and use, and to create greater certainty for the citizens of Utah and Indian Country, I am pleased to announce that I am initiating a process to develop federal legislation that seeks to address many of the issues that have plagued public land management in eastern Utah. The intent of this letter is to formally request comments from interested parties on public lands issues that are important to their respective organizations in this region of the state.

To better understand your organizations interests and priorities, I ask that you provide a written, prioritized list of public land designations it wishes addressed—including wilderness, other land designations, or other considerations. Given the significant scope of this process, each individual item that is submitted, should have a unique overall ranking to help my office understand your priorities.

The benefits of land conservation and multiple-use are well-known and obvious. Your organization's list of priorities will help inform and shape the discussion with other partners and stakeholders as we attempt to craft legislation that will help accomplish the appropriate balance of conservation and multiple-use on our public lands and help sustain and elevate our quality of life for generations to come.

Utah is blessed with unparalleled landscapes, recreational opportunities, and world-class natural resources. This effort will be both time-consuming and challenging—but it's worth it. I look forward to working with you as we move into the next phase of this critically important endeavor. I ask that you please provide your list of priorities via email to Fred Ferguson in my Washington, D.C. office (Fred.Ferguson@mail.house.gov) no later than March 22, 2013.

Sincerely,

ROB BISHOP,
Member of Congress.

CONGRESS OF THE UNITED STATES,
WASHINGTON, DC 20515

October 16, 2015

The Honorable Russell Begaye
President, Navajo Nation
P.O. Box 900
Window Rock, AZ 86515

President Begaye:

I am writing to update you regarding the latest developments of Public Lands Initiative (PLI) and more specifically, to follow up on our conversation from August 18, 2015. As you recall, I lead a delegation of multiple Utah officials to meet with you and members of your Administration in Flagstaff, Arizona. We had a productive discussion about shared ideas about how we could find a consensus approach to protect the lands and interests of San Juan County, Utah residents and at the same time, advance the goals and interests of the Navajo Nation.

In that meeting, you expressed to me repeatedly that the primary interest was to find a mechanism where Native Americans would hold real, meaningful management responsibility over the Bears Ears landscape. I told you then that this was a fair, reasonable, and achievable goal. I still believe that to be the case. That is why I have instructed my staff to find a way within the PLI to legislatively create a management structure that put the Navajo Nation and other tribes in such a management position.

At that meeting, I communicated to you my skepticism that the Navajo Nation could achieve its management goals under an executive national monument designation. I still continue to hold this skepticism. A presidential monument designation is simply not capable of providing you with the management control and flexibility you seek. A legislative process, such as the PLI, can provide you that management control.

I remain willing to work with you to find a reasonable solution to help the Navajo Nation accomplish its aims for the Bears Ears region, and I welcome the opportunity to show you how we could accomplish these shared goals. If you or your staff would like to discuss legislative language or other legislative concepts, please contact my Chief of Staff, Fred Ferguson (202-225-7751), to schedule a meeting. Thank you for your service and I look forward to hearing from you.

Sincerely,

JASON CHAFFETZ,
Member of Congress.

CONGRESS OF THE UNITED STATES,
WASHINGTON, DC 20515

April 29, 2016

The Honorable Barack H. Obama
President
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear Mr. President:

It is widely known that you are considering use of the Antiquities Act to declare a national monument in the State of Utah. We have previously written to you expressing our opposition to this action. While we appreciate the Secretary of the Interior's response to our letter, we believe it was an inadequate response, as the Department of the Interior does not possess the authority to declare a national monument.

To further communicate our strong opposition against the unilateral creation of a national monument in the State of Utah, we respectfully request the opportunity to personally meet with you to discuss our basis for opposition.

A meeting of this nature is supported by your recent public statements. In a February meeting with the National Governors Association, you stated that open lines of communication are needed when discussing national monument designations. To that end, we believe a meeting involving you, Governor Gary Herbert, the Congressional delegation, and Utah's only elected Navajo official is critical to successful communication and planning.

Finally, we hope a recent meeting we had with your staff will result in a productive dialogue regarding the Public Lands Initiative (PLI). The PLI is a balanced legislative approach to land management in eastern Utah. If passed, the PLI will establish greater land-use certainty and conserve more than four million acres of federal land. Many groups, including conservation groups, are still at the table providing feedback and comments on the draft PLI. The same draft was given to your staff on January 14, 2016 but thus far feedback has not been provided.

Thank you for your consideration. Collaborative planning is essential in the land management arena, and we look forward to meeting with you.

Sincerely,

Rebecca Benally,
San Juan County Commissioner

Gary Herbert,
Governor

Orrin Hatch,
United States Senator

Rob Bishop,
Member of Congress

Mike Lee,
United States Senator

Jason Chaffetz,
Member of Congress

Chris Stewart,
Member of Congress

Mia Love,
Member of Congress

CONGRESS OF THE UNITED STATES,
WASHINGTON, DC 20510

November 18, 2016

To the Co-Chairmen and Members of the Bears Ears Inter-Tribal Coalition:

The November 2, 2016 meeting involving the Bears Ears Inter-Tribal Coalition and our offices was very productive. We were grateful for the time of the Coalition members who were able to attend. We look forward to continued dialogue as proposals are put forward concerning the Bears Ears region of Utah.

Following up on the conversations we had during our meeting, we are writing to formally request draft legislative language that would implement an equitable co-management system for the Bears Ears region. It has been widely reported that co-management cannot be achieved through an Antiquities Act designation. We believe

the congressional process can craft a meaningful co-management plan in which the Tribes are made equal to other participants.

We are committed to finding legislative solutions to the various land designation and management challenges facing the Bears Ears region of San Juan County, Utah. Open dialogue and communication will ensure that all points of view, options, and solutions are considered.

We look forward to hearing from you and stand ready to work together.

Sincerely,

Orrin Hatch,
United States Senator

Rob Bishop,
United States Representative

Mike Lee,
United States Senator

Jason Chaffetz,
United States Representative

Mr. Bishop Submission

BEARS EARS INTER-TRIBAL COALITION

November 30, 2016

To Utah Congressional Delegation:

Thank you for hosting a meeting between tribal leaders from the Bears Ears Coalition and Utah congressional staff earlier this month. We sincerely valued the opportunity to hear directly from you and to discuss some of our concerns with the Utah Public Lands Initiative (PLI).

As you know, each Tribe that comprises the Bears Ears Coalition has continually expressed an interest in collaboratively managing the Bears Ears landscape. We are pleased that you might be willing to accept our approach to collaborative management. After internal deliberation, however, the Coalition is still not able to support the Public Lands Initiative as drafted. As discussed at the meeting, some problematic areas of the PLI include:

- The failure to use the boundaries, encompassing 1.9 million acres, as proposed by the Coalition after years of expert research and analysis of this area;
- The removal of 100,000 acres of land from the Uintah and Ouray Indian Reservation;
- Amendments to the Utah Navajo Trust Fund absent consultation with the Navajo Nation;
- The long term consequences that the transfer of energy permitting and regulatory authority to the State will have on the landscape and nearby communities;
- Provisions validating Utah's claimed ownership of PL 2477 rights of way;
- Provisions allowing mining in much of the 1.9 million acre area proposed by the Coalition.

These are only a few of the concerns that the Coalition has with the PLI. Until adequately addressed, the Coalition is not prepared to acquiesce to a draft bill by providing additional draft language. Nonetheless, we are grateful for the opportunity to discuss these issues with each of your offices.

Sincerely,

Alfred Lomahquahu,
Bears Ears Co-Chair
Hopi Vice-Chairman

Carleton Bowekaty,
Bears Ears Representative
Pueblo of Zuni Councilman

Mr. Grijalva Submissions

February 13, 2018

Hon. ROB BISHOP, *Chairman*,
 Hon. RAÚL GRIJALVA, *Ranking Member*,
House Committee on Natural Resources,
Washington, DC 20515.

Hon. TOM MCCLINTOCK, *Chairman*,
 Hon. COLLEEN HANABUSA, *Ranking Member*,
House Subcommittee on Federal Lands,
Washington, DC 20515.

Dear Representatives Bishop, Grijalva, McClintock and Hanabusa:

As organizations and Tribal Nations dedicated to the preservation of cultural, historic, and archaeological resources, we write today regarding the Shash Jáa National Monument and Indian Creek National Monument Act (H.R. 4532). For the reasons outlined below, we urge the Committee not to advance this legislation.

The full Bears Ears National Monument protects an internationally significant cultural landscape that holds evidence of more than 12,000 years of human history. In excess of 100,000 archaeological sites with their associated artifacts lie within the monument's original boundaries, along with natural landscapes of outstanding scenic beauty that have deep cultural significance for Indian tribes with ancestral ties to the region. The monument designation appropriately prioritized protecting the remarkable cultural, historic, and scientific resources found throughout the area, while continuing to allow for traditional and recreational uses of these public lands.

H.R. 4532 would remove more than 1.1 million acres from the Bears Ears National Monument, including some of the most significant and highly visited archaeological areas such as Grand Gulch and most of Cedar Mesa. The vast area that the bill excludes holds more than 70 percent of the original monument's documented archaeological sites, historic and pre-historic structures, cliff dwellings, pictographs, petroglyphs, kivas, ancient roads, historic trails, artifacts, and other archaeological resources. These cultural resources require greater management focus, strategic planning, and visitor education, not less.

For the two new national monuments, the bill establishes a troubling management structure that elevates the role of a small number of local officials above the voices of the five sovereign Tribal Nations represented on the Bears Ears Tribal Commission, as well as the rest of the American people who own these lands. The bill explicitly excludes the Hopi and Zuni tribes, whose ancestors, along with other Pueblo tribes, are responsible for creating the remarkable archaeological record preserved by the monument. We support tribal co-management—including the Hopi Tribe, Navajo Nation, Ute Indian Tribe, Ute Mountain Ute Tribe, and Pueblo of Zuni alongside federal land managers—to ensure tribal values and traditional knowledge are incorporated in management of the area. Effective co-management requires government-to-government collaboration both in design and implementation. This bill provides neither.

We do appreciate the bill's acknowledgement that this culturally sensitive and archaeologically rich landscape is not the appropriate place for new oil and gas development or mining. We also applaud Representative Curtis for seeing the need for more on-the-ground resources, which should go beyond law enforcement to include staff archaeologists, backcountry rangers, and education specialists. However, these positive elements cannot compensate for the removal of protection for key archaeological areas and the flawed management structure that would put these lands at risk.

We urge the Committee not to move forward with this legislation, and, instead, engage in meaningful discussions with Tribal governments, archaeological experts,

conservationists and other stakeholders about how to protect the exceptional cultural resources of this area for current and future generations.

Sincerely,

National Trust for Historic Preservation	National Association of Tribal Historic Preservation Officers
American Anthropological Association	Nevada Preservation Foundation
American Cultural Resources Association	Pala THPO
Archaeology Southwest	Providence Preservation Society
Arizona Heritage Alliance	Governor Joseph Talachy and the Pueblo of Pojoaque
Arizona Preservation Foundation	THPO, Pueblo of Pojoaque
California Preservation Foundation	Save Our Heritage Organisation
Cienega Watershed Partnership	Site Steward Foundation, Inc.
Coalition for American Heritage	Society for American Archaeology
Colorado Council of Professional Archaeologists	Society for California Archeology
Colorado Plateau Archaeological Alliance	Society for Historical Archaeology
Colorado Preservation, Inc.	SRI Foundation
Conservation Lands Foundation	US/ICOMOS (The United States National Committee of the International Council on Monuments and Sites)
Crow Canyon Archaeological Center	Vail Preservation Society
Council for Northeast Historical Archaeology	Washington Trust for Historic Preservation
Friends of Cedar Mesa	

PYRAMID LAKE PAIUTE TRIBE,
NIXON, NEVADA
February 7, 2018

Hon. ROB BISHOP, *Chairman*,
Hon. RAÚL GRIJALVA, *Ranking Member*,
House Committee on Natural Resources,
Washington, DC 20515.

Hon. TOM MCCLINTOCK, *Chairman*,
Hon. COLLEEN HANABUSA, *Ranking Member*,
House Subcommittee on Federal Lands,
Washington, DC 20515.

Dear Representatives Bishop, Grijalva, McClintock and Hanabusa:

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We do appreciate the bill's acknowledgement that this culturally sensitive and archaeologically rich landscape is not the appropriate place for new oil and gas development or mining. We also applaud Representative Curtis for seeing the need for more on-the-ground resources, which should go beyond law enforcement to include staff archaeologists, backcountry rangers, and education specialists. However, these positive elements cannot compensate for the removal of protection for key archaeological areas and the flawed management structure that would put these lands at risk.

We urge the Committee not move forward with this legislation, and, instead, engage in meaningful discussions with Tribal governments, archaeological experts, conservationists and other stakeholders about how to protect the exceptional cultural resources of this area for current and future generations.

Respectfully,

VINTON HAWLEY,
Tribal Chairman.

[LIST OF DOCUMENTS SUBMITTED FOR THE RECORD RETAINED IN THE
COMMITTEE'S OFFICIAL FILES]

—*Deseret News*, “Big money, environmentalists and the Bears Ears story,” by Amy Joi O’Donoghue, August 4, 2016.

Rep. Grijalva Submissions

—American Geosciences Institute, Statement for the Record on H.R. 4532.

—Letter addressed to Chairman McClintock and Ranking Member Hanabusa from the American Alpine Club, dated January 30, 2018.

- National Parks Conservation Association, Statement for the Record on H.R. 4532.
- Resolution NABIJA-05-18 of the Naabik'iyáti' Standing Committee of the 23rd Navajo Nation Council.
- Society for American Archaeology, Statement for the Record on H.R. 4532.
- Ute Mountain Ute Tribe, Advisory Resolution, dated January 24, 2018.

