



Testimony of the Navajo Nation
Submitted by President Russell Begaye

Before the U.S. House of Representatives
Committee on Natural Resources
Subcommittee on Federal Lands

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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 four-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 fifteen 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 Jáa 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 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.