

**Statement of Casey Hammond
Deputy Assistant Secretary for Land and Minerals Management
U.S. Department of the Interior**

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

**H.R. 4532, Shash Jáa National Monument and Indian Creek National Monument Act
January 30, 2018**

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

reestablishes 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 towards 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.