

BEARS EARS STUDY

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Introduction

Native American tribes have always been concerned about federal control of public lands, and what actions that the Department of the Interior and Department of Agriculture may take. It was not so long ago that those lands were tribal territories and forcibly taken away from them after all. Bears Ears brings back those feelings and has created controversy in every public and private sector ever since President Obama announced that he would be protecting the area in southeastern Utah as a national monument. This paper will outline the basics behind the Bears Ears area, as well as some of the major players in the conflict over the region. From devout conservationists to those that denounced the declaration as a land grab and overreach of executive power, there have been many reactions from different groups and even policy changes with the new presidential administration.

Bears Ears Basics

In order to understand the attitudes and the values of the people involved and why this is such a controversial topic, we need to understand the basics behind what is involved with the Bears Ears area. The monument is named Bears ears due to the presence of a pair of buttes that rise over 2000 feet above the Utah routes 95 and 261. The buttes and surrounding area have long been considered a sacred place by the Native American tribes living in the region. The area also contains Pueblo cliff dwellings, petroglyphs, and pictographs, and over 100,000 estimated archeological sites (Suagee, 2018). In order to protect and preserve this area, President Obama issued a proclamation establishing the Bears Ears Monument on December 28, 2016. "This

monument included 1.35 million acres of land recognized as having important cultural, scientific, ecological, and recreational value. President Obama designated the monument with the special authority granted to presidents under the 1906 Antiquities Act" (Suagee, 2018). Under this proclamation, the president directed the secretaries of the DOI and DOE to "ensure protection of Indian sacred sites and traditional cultural properties in the monument and provide access by members of Indian tribes for traditional cultural and customary uses [such as] collection of medicines, berries and other vegetation, forest products, and firewood for personal noncommercial use." (Suagee, 2018). It also established the Bears Ears Commission, which had one elected officer of each of the five tribes (Hopi, Navajo, Ute, Ute Mountain, and Zuni), which were impacted by and involved with the new monument. This commission was to provide guidance, recommendations, and make sure that any decisions made reflected traditional and historical tribal knowledge (Suagee, 2018).

Issuing his proclamation on December 4 2017, President Trump ordered an 85 percent reduction in the size of the monument. He had the boundaries redrawn into two separate areas named Indian Creek and Shash Jaa. It is Shash Jaa that includes the actual Bears Ears buttes that originated the name. Several other Native American sites will also remain inside the new monument areas, notably the Moon House Ruin, and the Lime Ridge Clovis Site (Popovich, 2017). This reduction has led to the Bears Ears area being a focus for numerous conservation groups opposed to the Trump administration, and led to a large number of lawsuits, alleging issues from that President Trump does not have the authority to reduce the monument size to such an extent, and that it is a violation of the due process of the tribes in the area. These lawsuits are still being processed through the courts, and have yet to reach any verdicts.

Presidential policies

In looking at the attitudes toward Bears Ears and the changes made to it, we need to examine the differing administrative policies between the Obama and Trump administrations. In looking at the Obama presidency, we can see that there was an extended effort to create new monuments and protect large areas of public lands. Using inputs from environmental groups, Native American tribes, and state officials, the president managed to create or expand twenty-nine monuments (Lipton & Friedman, 2018). Before creating the Bears Ears Monument, he consulted with local residents as well as interested groups from around the area. One reason he decided to use a proclamation was that there had been a longstanding fight between the Utah State Legislator and the tribes and interested parties regarding Bears Ears. It was only after years in which there had been no local progress that he decided to take action.

After President Trump took office, he immediately ordered a review of the proclamation of the Bears Ears Monument. Less than a year later, he issued his proclamation, "Modifying the Bears Ears National Monument. December 8, 2017" (Suagee, 2018). In addition to reducing the size of the monument by 85 percent, he also cut back the Grand Staircase-Escalante National Monument by 45 percent. President Clinton had designated that monument in 1996. (8) Internal emails and memos show that the Trump administration had focused on expanding oil, gas, and coal development and reserves and that those focuses had been the driving concern in the decisions on Bears Ears and the Grand Staircase Monuments (Lipton & Friedman, 2018).

Key players and outcomes

When looking at the Bears Ears controversy, it is essential to look at the key players and how their viewpoints and actions have influenced events. In order to understand how the Bears Ears Monument came about, we need to examine those groups who lobbied for its creation.

The main coalition behind the establishment of the Bears Ears Monument was a group of five tribes. They are the Hopi Tribe, Navajo Nation, Ute Indian Tribe, Ute Mountain Ute Tribe, and the Zuni Tribe. They were joined by a wide range of supportive elements, such as the Sierra Club and other influential groups (Suagee, 2018). One such group was the Grand Canyon Trust, represented by program director Tim Peterson. He pointed out that there was a large amount of Native American artifacts spread throughout the area, and that it was a hard job to pick one canyon or hill and decide that should be the only area covered by the monument (Popovich, 2017).

There was also a report released by a nonprofit group called Public Lands Solutions, which is dedicated to the development and promotion of recreational areas. They recommended that San Juan County could take advantage of the monument designation to bring in much-needed revenue to the poorest county in the state of Utah. They released the following statement in the report, "Instead of being viewed as a detriment to be overturned, county leaders and the tribes should use the monument to work on economic development that includes marketing of prime landmarks for tourism" (O'Donoghue, 2017).

After examining the pro-monument groups, we need to also look at those that were opposed to its creation. There was both private and public sector pushback against the designation. As part of the private sector response, most notable are the Sutherland Institute and Energy Fuels. The Sutherland Institute think tank is a special interest group with a history of promoting climate change denial, and arguing for a transfer of the federal lands in Utah to be turned over to local control (Podmore, 2020). The Energy Fuels group is the owner of the last conventional uranium mill in the US that is still operating. A large portion of their operation is

on land included under the original boundaries of the Bears Ears area (Lipton & Friedman, 2018).

We also need to consider public policy groups such as the Utah State Legislature and Senator Orrin Hatch. Sen. Hatch was a crucial voice in conveying the anti-monument stance to the Trump administration, and rallying support on the federal level for the scaling back of the Bears Ears Monument. He was assisted by the Utah Senate, who had a formal vote to urge the federal government to undo the designation, and claimed that it was an affront to the views of the majority of Utahns (O'Donoghue, 2017). They also passed a resolution urging President Trump to undo the monument with the following language, "The designation of the Bears Ears National Monument sets a dangerous precedent of allowing special interest groups to unduly influence the monument designation process" (Podmore, 2020). This closely followed talking points set up by the Sutherland Institute and showed how the two were working closely together to counter the pro-monument coalition represented by the Native American tribes with ties to the Bears Ears area. Finally, on the national stage, Rep. Chris Stewart and Rep. John Curtis introduced legislation to make president Trump's reduction of Bears Ears and the Grand Staircase monuments into federal law. This legislation never passed, and the question has been sidelined in the current congress, leaving the state of the two monument areas still in question (Burr, 2019).

Lawsuits

There are currently over ten groups suing president Trumps' administration, as well as Interior Secretary Ryan Zinke in federal court. These groups include the five Native American tribes that first pushed for the Bears Ears Monument, as well as the Conservation Lands

Foundation, Grand Staircase-Escalante Partners, and the Society of Vertebrate Paleontology. They are claiming that the president's actions were unconstitutional, unlawful and unauthorized. They are also claiming that President Trump does not have the authority to alter a monument designation once it has been made (Tanner, 2017). There are also claims that the plant and animal life in the area will be severely degraded, and the local ecosystems will be threatened. The lawsuits are currently pending in the federal courts and are likely to see numerous appeals of the ruling for multiple parties (Tanner, 2017).

Readings

Going through our course material, we get a sense of how complicated issues like the Bears Ears issues can become. Local attitudes can differ from town to town, all the way up to the state leaders. Not to mention the attitudes and priorities of whoever holds the White House at the time. We have seen from the readings the changes in environmental actions from the Clinton to the Bush to the Obama administrations. We have also seen in examining the recent Bears Ears and Grand Staircase issues, how things have changed from Obama to the newer Trump administration. To illustrate this, here are some Utah local issues, and a few examples from our readings on government policymaking.

One significant issue brought up in the reading is the federal raid on Blanding, Utah that was aimed at taking down a black-market ring selling American Indian artifacts. Reactions to the raid in Blanding were mixed among the locals, with some being forgiving and stating that with the high levels of personal gun ownership in the area, federal authorities were perfectly reasonable in the assault-style raid. There is a large number of people who resent the authorities, however and believe that there was no need for such extreme action. These viewpoints showcase

the conflicting views and beliefs of a town that has a long history of digging up and selling artifacts in previous eras when such activities were commonly sanctioned. There is still a large amount of distrust of federal demands on personal activities, and the attitude of us vs them is a large part of the local culture (Berkes, 2009). "We still have these persistent notions that it is OK to collect stuff from the surface," says Winston Hurst, an archaeologist and Blanding native. He points to school field trips and Boy Scout hikes in which kids are encouraged to pocket arrowheads or broken pieces of pottery (Berkes, 2009).

Another local story has taken place in San Juan County, at the heart of the Bears Ears controversy. Local attitudes have traditionally consisted of fierce push back against any oversight by federal authorities, and local critics stated that they did not want to use the new monument to drive more tourism to the area. Saying that they did not want to become an overcrowded tourist hub like Moab, Utah (O'Donoghue, 2017). In order to fight against the Bears Ears Monument, they teamed up with the Sutherland Institute and the Stewards of San Juan County, an anti-monument group founded by the former County Commissioner Phil Lyman. They also spent nearly half a million dollars with a law firm in Louisiana to lobby on the county's behalf in order to repeal the monument (Podmore, 2020). This changed drastically when the local Native American residents successfully sued the County Commission, stating that they were unlawfully denied representation on the council. With the lawsuit won in their favor, the Native American residents were able to win a majority of the council seats and reverse the official statements of the San Juan County council. This shows that local viewpoints are not always equally represented and that drastic reversals can take place when those attitudes are fairly represented.

As we discuss federal action, we need to acknowledge that a lot of the direction the country takes in regard to the public lands and the environment is informed by the current White

House administration. The Clinton presidency was marked by hopes that he would reenergize and expand environmental commitments but was stymied by a hostile Republican majority (Rosenbaum, 2017, p 11). That led to the George W. Bush administration, and the focus on energy exploration and expansion became the leading direction. This also led to significant partisanship in congress in regards to any issues related to public lands or the environment (Rosenbaum, 2017, p 13). After the election of President Obama, he promised to focus more on the protection of public lands and a renewed focus on environmental issues. Again, those plans were blocked by an extremely hostile Republican congress, and little was accomplished through that avenue (Rosenbaum, 2017, p 14). President Obama eventually used his authority to designate public lands as monuments as an end-run around congressional blocks and was able to put into effect some of his environmental priorities (Rosenbaum, 2017, p 15). However, this has led to an equalizing issue with the Trump presidency, in that he has equal powers to reverse and change many of the programs enacted before he was elected. As is explained in the video "Sources of legal authority in environmental policy" (Sources video), we see that shifting viewpoints and political challenges can drastically alter the administration of the public lands we value so much, especially with regards to executive orders. The resolution of part of the current controversy could be resolved with a judicial decision (Sources video) that might reverse the Trump decision. It could also enforce the authority of his decision if it decides in his favor in this issue.

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