

NATIONAL MONUMENTS – ALL FEDERAL AGENCIES

January 15, 2017

Question #1: How many national monuments are there in the national park system?

According to the 2005- 2007 Official Index of the National Park Service there were 73 areas of the national park system officially titled “national monuments.” In 2008, Congress converted a national monument in Idaho (“Minidoka Internment”) to a national historic site, making 72 national monuments.

President George W. Bush declared national monument #73 in New York (“African Burial Ground”), and President Obama declared national monument #74 in Virginia (“Fort Monroe”) and #75 in California (“Cesar Chavez”).

In January 2013, Congress converted Pinnacles National Monument into a national park. As of January 3, 2013, there were 74 national monuments. In March 2013, President Obama declared three new national monuments to be administered by the NPS. They are “The First State National Monument” in Delaware, the “Charles Young-Buffalo Soldier National Monument” in Ohio and the “Harriet Tubman-Underground Railroad National Monument” in Maryland. This action brought the number of national monuments to 77.

In December 2014, Congress directly established a new national monument in Nevada – Tule Springs, and renamed the First State National Monument as a “national historical park,” thus leaving the number of monuments unchanged at 77. Also in December 2014, Congress incorporated (though technically did not abolish) the Harriet Tubman National Monument into a new “national historical park.” For purposes of this compilation, it is considered abolished. National Monuments thus stood at 76.

In February 2015, President Obama declared two new national monuments – Pullman National Monument in Chicago Illinois and Honouliuli National Monument on Oahu in Hawaii. There were 78 national monuments in the national park system. In July 2015, President Obama declared a new national park system national monument as Waco Mammoth National Monument in Texas. It is #79. In February 2016, President Obama declared the Castle Mountains National Monument in California for a total of 80 NPS-administered national monuments. In April 2016, President Obama proclaimed the 81st NPS-administered national monument – the Belmont-Paul Women’s Equality National Monument. In June 2016, President Obama proclaimed Stonewall National Monument in New York City, New York, the 82nd NPS-administered national monument. On August 29, 2016, President Obama proclaimed the Katahdin Woods and Waters National Monument in Maine. In January 2017, President Obama proclaimed Birmingham Civil Rights National Monument in Alabama, Freedom Riders National Monument also in Alabama, and Reconstruction Era National Monument in South Carolina.

The national park system now contains 86 national monuments.

Question #2: How many NPS national monuments were created directly by Congress?

Of the 86 current NPS-administered national monuments, there are 29 extant national monuments created by acts of Congress, rather than a presidential proclamation.

Arranged by State, they are:

- Aniakchak (AK)
- Cape Krusenstern (AK)
- Canyon De Chelly (AZ)
- Hohokam Pima NM (AZ)
- Florissant Fossil Beds NM (CO)
- Fort Frederica NM (GA)
- Ocmulgee NM (GA)
- Hagerman Fossil Beds NM (ID)
- Poverty Point NM (LA)
- Fort McHenry NM (MD)
- Grand Portage NM (MN)
- Pipestone NM (MN)
- George Washington Carver NM (MI)
- Little Bighorn Battlefield NM (MT)
- Agate Fossil Beds NM (NE)
- Homestead NM of America (NE)
- El Malpais NM (NM)
- Fort Union NM (NM)
- Petroglyph NM (NM)
- Salinas Pueblo Mission ((NM)
- Tule Springs (NV)
- Castle Clinton NM (NY)
- Fort Stanwix NM (NY)
- John Day Fossil Beds NM (OR)
- Fort Sumter NM (SC)
- Alibates Flint Quarries NM (TX)
- Booker T. Washington NM (VA)
- George Washington Birthplace NM (VA)
- Fossil Butte NM (WY)

(Canyon de Chelly National Monument is an anomaly. It was authorized by an Act of Congress in 1931 and proclaimed by the President under that act. Thus it results from both an act of Congress and a presidential proclamation (though not an Antiquities Act proclamation)).

Congress also created by statute three other national monuments: Pecos (1965), Biscayne (1968) and Congaree (1976) that Congress subsequently abolished and incorporated into the Pecos National Historic Park, Biscayne National Park and Congaree National Park.

These three, and the 27 extant national monuments listed directly above, thus comprise all 30 national park system national monuments created by an act of Congress.

Fifty-four of the 83 current NPS national monuments exist today solely as a result of a presidential proclamation.

Question #3: What monuments have been abolished?

Congress abolished several national monuments created by presidential proclamations. Three of the 15 National Monuments transferred from the Forest Service to the National Park Service in 1933 (Executive Order 6166, June 10, 1933) - Holy Cross (CO), Old Kasaan (AK) and Wheeler (CO) – were later abolished. The monuments were abolished by Congress in 1950, 1955 and 1950 respectively, and the lands encompassed in them reverted to Forest Service administration.

The War Department administered ten National Monuments established by proclamation: Big Hole Battlefield, Cabrillo, Castle Pinckney, Father Millet Cross, Fort Marion, Fort Matanzas, Fort Pulaski, Meriwether Lewis, Mound City Group and the Statue of Liberty National Monuments. The monuments were transferred to the Department of the Interior by Executive Order (EO) No. 6166, referenced above. Because of some doubt as to the meaning of EO No. 6166, President Roosevelt issued EO 6228 on July 28, 1933, specifically listing War Department properties, including national monuments that were to be transferred to the National Park Service. Of these ten, Father Millet Cross National Monument was abolished by Congress in 1949. Castle Pinckney National Monument was abolished by Congress in 1956. Meriwether Lewis National Monument became part of Natchez Trace National Parkway by Act of Congress in 1961. Congress renamed Fort Marion as "Castillo de San Marcos National Monument" in 1942. The other six former War Department monuments (Big Hole Battlefield, Cabrillo, Fort Matanzas, Fort Pulaski, Mound City Group and the Statue of Liberty) remain as national monuments within the national park system, as they were originally named

Presidential Proclamations created five other national monuments that Congress abolished and whose lands are not now administered by the NPS. The monuments were given to the NPS at their origin and were administered by the NPS until their demise. The monuments and their year of abolition by Congress were: Fossil Cycad (SD) (1956), Lewis and Clark Cavern (MT) (1937), Papago Saguaro (AZ) (1930), Shoshone Cavern (MT) (1954) and Verendrye (ND) (1956).

Question #4: How many national monuments were abolished and their lands incorporated into a new NPS area, created by Congressional act?

Over time, Congress abolished 52 national monuments by incorporating their land into National Parks, National Historical Parks, National Preserves or other units. The count includes the 13 monuments declared by Jimmy Carter in 1978 in Alaska. The following lists these in order of the year Congress abolished the monument.

The two Forest Service-administered monuments - Cinder Cone and Lassen Peak were transferred to the NPS when Congress incorporated the monuments' lands into Lassen Volcanic National Park in 1916.

Congress abolished the 1916 Sieur de Monts National Monument and incorporated it into the Lafayette National Park in 1919, later renamed Acadia National Park.

The Forest Service-administered Grand Canyon National Monument was incorporated into the Grand Canyon National Park in 1919.

The Forest Service-administered Munkutuweap National Monument was abolished and renamed Zion National Monument and transferred to the NPS in 1918; Congress incorporated the monument into Zion National Park in 1919.

The Forest Service-administered Bryce Canyon National Monument was incorporated into Bryce Canyon National Park in 1928.

Congress abolished the 1923 Carlsbad Caverns National Monument and incorporated it into the Carlsbad Caverns National Park in 1930.

Congress transferred the Forest Service-administered Mount Olympus National Monument to the NPS, abolished it and incorporated it as part of Olympic National Park in 1938.

Congress abolished the 1943 Jackson Hole National Monument and incorporated it into Grand Teton National Park in 1950.

Congress abolished the 1938 Fort Laramie National Monument and incorporated it into Fort Laramie National Historic Site in 1960.

Congress abolished the Meriwether Lewis National Monument and made it part of Natchez Trace National Parkway in 1961. (Congress also abolished the Ackia Battleground National Monument in Mississippi in the same act of 1961 – but Ackia Battlefield was NOT an Antiquities Act monument. Rather it was authorized by Congress in 1935 and proclaimed by Franklin Roosevelt in 1938).

Congress abolished the 1906 Petrified Forest National Monument and incorporated it into Petrified Forest National Park in 1962.

Congress abolished 1929 Badlands National Monument and incorporated it into Badlands National Park in 1968.

Congress abolished the 1929 Arches National Monument and incorporated it into Arches National Park in 1971.

Congress abolished the 1937 Capitol Reef National Monument and incorporated it into Capitol Reef National Park in 1971.

Congress abolished 1961 Chesapeake and Ohio Canal National Monument and incorporated it into C&O Canal National Historical Park in 1971.

Another abolished monument has a more curious history. Proclaimed in 1939, the Santa Rosa Island National Monument in Florida was abolished by Congress in 1946. These lands are now part of the Gulf Islands National Seashore, established by Congress in 1972.

Congress abolished the 1932 Grand Canyon National Monument and 1969 Marble Canyon National Monument by incorporating the two into an expanded Grand Canyon National Park in 1975

Congress abolished the 1918 Katmai National Monument and incorporated it into Katmai National Park in 1980 (ANILCA).

Congress abolished the 1925 Glacier Bay National Monument and incorporated it into Glacier Bay National Park in 1980 (ANILCA)

Congress abolished all 13 of the 13 national monuments proclaimed by President Jimmy Carter in Alaska in 1978 and established these areas as national parks, preserves or monuments by congressional charter in 1980 (ANILCA). These are: Bering Land Bridge, Denali, Gates of the Arctic, Glacier Bay, Katmai, Kenai Fjords, Kobuk Valley, Lake Clark, Noatak, Wrangell-St. Elias, Yukon-Charley. ANILCA repealed the proclamations but retained the “national monument” title for Aniakchak and Cape Krusenstern.

Congress abolished the 1938 Channel Islands National Monument and incorporated it into Channel Islands National Park in 1980.

Congress abolished the 1968 Biscayne National Monument and incorporated it into the Biscayne National Park in 1980. (One of three examples of a congressionally-created national monument that was subsequently abolished by incorporation into a larger and renamed unit).

Congress abolished the 1907 Chaco Canyon National Monument and incorporated it into Chaco Culture National Historical Park in 1980.

Congress abolished the 1922 Lehman Caves National Monument and incorporated it into Great Basin National Park in 1986.

Congress abolished the 1907 Gran Quivira National Monument and incorporated it into the congressionally-designated Salinas Pueblo Missions National Monument in 1988.

Congress abolished the 1976 Congaree Swamp National Monument and incorporated it into the Congaree Swamp National Park in 1988. (Second of three examples of a congressionally-created national monument that was subsequently abolished by incorporation into a larger and renamed unit).

Congress abolished the 1965 Pecos National Monument and incorporated it into Pecos National Historical Park in 1990. (Third of three examples of a congressionally-created national monument that was subsequently abolished by incorporation into a larger and renamed unit).

Congress abolished the 1908 Tumacacori National Monument (administered by DOI – General Land Office) and transferred to NPS (1918) when it created Tumacacori National Historical Park in 1990.

Congress abolished the 1935 Fort Jefferson National Monument and incorporated it into Dry Tortugas National Park in 1992.

Congress abolished the 1933 Saguaro National Monument and incorporated it into Saguaro National Park in 1994.

Congress abolished the 1933 Death Valley National Monument and incorporated it into Death Valley National Park in 1994.

Congress abolished the 1936 Joshua Tree National Monument and incorporated it into the Joshua Tree National Park in 1994.

Congress abolished the 1933 Black Canyon of the Gunnison National Monument and incorporated it into the Black Canyon of the Gunnison National Park in 1999.

Congress abolished the 1932 Great Sand Dunes National Monument and incorporated it into Great Sand Dunes National Park in 2000.

Congress renamed the 2002 addition of 410,000 acres to Craters of the Moon National Monument as Craters of the Moon National Preserve in 2002. No net gain or loss of number of units that are NPS “national monuments” because the original Craters of the Moon National Monument (proclaimed 1924) remained untouched.

Congress abolished the 2001 Minidoka Internment National Monument and converted it to Minidoka National Historic Site in 2008.

Congress abolished the 1908 Pinnacles National Monument and designated it a national park in 2013.

Congress abolished the 2103 First State National Monument in Delaware and renamed the area as the First State National Historic Park in 2014.

Congress incorporated the 2013 Harriet Tubman – Underground Railroad National Monument into the Harriet Tubman Underground Railroad National Historical Park in 2104.

Question #5: Does the Forest Service administer any national monuments?

President Theodore Roosevelt proclaimed the first two national monuments placed under the administration of the Forest Service at Cinder Cones and Lassen Peak, California on May 6, 1907. Subsequently, presidential proclamations established 14 more national monuments under Forest Service control, for a total of 16 national monuments. Fifteen Forest Service monuments were transferred to the national park service in 1933, and one in 1938.

After a forty-year hiatus, the Forest Service again came to administer national monuments in 1978 with the proclamation of Admiralty Island and Misty Fjords in Alaska by President Jimmy Carter, a proclamation subsequently ratified by Congress in ANILCA in 1980. The Forest Service currently administers, either alone or jointly with the Bureau of Land Management, 11 national monuments. Five were created by Congress. Six were proclaimed under the Antiquities Act.

They are arranged in order of their states:

- Admiralty Island (AK) Signed into Law by President Carter - 1980
- Misty Fjords (AK) Signed into Law by President Carter - 1980
- Berryessa-Snow Mountain (CA) (shared with BLM) Proclaimed by President Obama – 2015
- Giant Sequoia (CA) Proclaimed by President Clinton – 2000
- Sand to Snow (CA) (shared with BLM) Proclaimed by President Obama - 2016
- San Gabriel Mountains (CA) Proclaimed by President Obama - 2014
- Santa Rosa and San Jacinto Mountains (CA) (shared with BLM) Signed into Law by President Clinton - 2000
- Browns Canyon (CO) (shared with BLM) Proclaimed by President Obama - 2015
- Chimney Rock (CO) Proclaimed by President Obama – 2012
- Newberry Crater Volcanic (OR) Signed into Law by President George H.W. Bush - 1990
- Mt. St. Helens Volcanic (WA) Signed into Law by President Reagan - 1982

Question #6: How many national monuments were transferred to the NPS from the Forest Service?

President Franklin D. Roosevelt transferred 15 national monuments, all created by presidential proclamation, from the Forest Service to the NPS in June 1933. Three were later abolished. The transferred Forest Service national monuments, and the dates of their proclamation, arranged by State, are:

Chiricahua – 1924 (AZ)
Saguaro – 1933 (AZ)
Sunset Crater – 1930 (AZ)
Tonto – 1907 (AZ)

Walnut Canyon – 1915 (AZ)
Devils Post Pile – 1911 (CA)
Lava Beds – 1925 (CA)
Gila Cliff Dwellings – 1907 (NM)
Lehman Caves – 1922 (NV)
Oregon Caves – 1909 (OR)
Jewel Cave - 1908 (SD)
Timpanogos Cave – 1922 (UT)

The three transferred, and subsequently abolished, monuments are:

Old Kasaan – 1916 (AK)
Holy Cross – 1929 (CO)
Wheeler – 1908 (CO)

The 16th Forest Service national monument, Mount Olympus in Washington State, proclaimed in March 1909 by Theodore Roosevelt, remained under Forest Service administration until 1938. In 1938, Congress abolished this, the last, Forest Service national monument and incorporated its lands into Olympic National Park. In 1978 the Forest Service once again was given custody of some national monuments.

Question #7: How many monuments are administered by the Bureau of Land Management, either alone or jointly with the Forest Service?

The BLM never had any national monuments until the Clinton administration. Now, the BLM administers 28 “national monuments,” with over 9 million acres of public lands. All except two (Prehistoric Trackways and Santa Rosa and Jan Jacinto Mountains) were established by presidential proclamation. Of the 26 BLM presidentially-proclaimed BLM monuments, 15 were proclaimed by President Bill Clinton and 11 by President Obama.

The 28 BLM national monuments, listed by State, are:

Congressionally established BLM Monuments - 2

- Santa Rosa and San Jacinto Mountains (CA) (shared with Forest Service), signed into law by President Clinton in 2000.
- Prehistoric Trackways (NM), signed into law by President Obama in 2009.

President Clinton’s BLM Monuments - 15

- Agua Fria (AZ)
- Grand Canyon-Parashant (AZ) (overlap with some lands in Lake Mead NRA administered by NPS, a dual reservation)
- Ironwood Forest (AZ)
- Vermillion Cliffs (AZ)
- Sonoran Desert (AZ)
- California Coastal (CA) (*enlarged by Obama twice*)
- Santa Rosa and San Jacinto Mountains (CA) (shared with Forest Service)
- Carrizo Plain (CA)

- Canyons of the Ancients (CO)
- Craters of the Moon (ID) (administered in part by BLM, but mostly by NPS)
Most is now Part of NPS Craters of the Moon National Monument and Preserve.
BLM administered portion of the Monument that was expanded in 2000 continues to exist.
- Pompeys Pillar (MT)
- Upper Missouri River Breaks (MT)
- Tent Rocks (NM)
- Cascade-Siskiyou (OR) (*enlarged by Obama*)
- Grand Staircase-Escalante (UT)

President Obama's BLM Monuments - 11

- *Fort Ord (CA) (Obama)*
- *Berryessa-Snow Mountain (CA) (Obama) (shared with Forest Service)*
- *Sand to Snow National Monument (CA) (Obama) (shared with Forest Service)*
- *Mojave Trails National Monument (CA) (Obama)*
- *Browns Canyon (CO) (shared with Forest Service) (Obama)*
- *Basin and Range (NV) (Obama)*
- *Gold Butte (NV) (Obama)*
- *Rio Grande Del Norte (NM) (Obama)*
- *Organ Mountains – Desert Peaks (NM) (Obama)*
- *Bears Ears (UT) (Obama) (shared with Forest Service)*
- *San Juan Islands (WA) (Obama)*

Question #8: Do any other Federal agencies administer national monuments?

Yes, the U.S. Fish and Wildlife Service (USFWS) and the National Oceanic and Atmospheric Administration (NOAA). President George W. Bush is noted for establishing vast national monuments in the marine areas and exclusive economic zones of the Pacific, administered by NOAA and the USFWS. He established the following:

- Northwestern Hawaiian Islands Marine National Monument (2006); renamed the Papahānaumokuākea Marine National Monument in 2007
- Marianas Trench Marine National Monument (2009)
- Pacific Remote Islands Marine National Monument (2009)
- Rose Atoll Marine National Monument (2009).

On September 25, 2014, President Obama expanded the Pacific Remote Islands National Monument. On August 26, 2016, President Obama expanded the Papahānaumokuākea Marine National Monument to reach the full extent of the United States' controlled Exclusive Economic Zone (EEZ), i.e. 200 miles seaward of U.S. territorial lands.

President Obama established the Northeast Canyons and Seamounts Marine National Monument off of the coast of New England on September 15, 2016.

Question #9: Have recent Presidents Proclaimed Monuments in the National Park System?

Presidents Clinton and Obama were prolific in declaring monuments for the BLM and Forest Service. They also declared national monuments for the national park system. Most were small historic areas.

President Clinton declared 4 national park system monuments. They are:

- President Lincoln and Soldiers Home 2000 (DC)
- Minidoka Internment 2001 (now Minidoka National Historic Site) (ID)
- Virgin Islands Coral Reef 2001 (Virgin Islands)
- Governors Island 2001 (NY)

President Clinton also significantly enlarged existing national monuments at Pinnacles (now Pinnacles National Park) (CA) in 2000, Craters of the Moon (now Craters of the Moon National Monument and Preserve) (ID) in 2000, and Buck Island Reef (VI) in 2001.

Between 2001 and 2009, President George W. Bush declared one national park system monument -African Burial Ground in New York in 2006.

President Obama declared 15 national park system monuments. Twelve were small historic sites. One was a small paleontological site. Two were larger natural areas. They are:

- Fort Monroe 2011 (VA)
- Cesar E. Chavez 2012 (CA)
- Harriet Tubman – Underground Railway 2013 (now Harriet Tubman – Underground Railroad National Historical Park) (MD)
- Charles Young Buffalo Soldiers 2013 (OH)
- First State 2013 (now First State National Historical Park) (DE)
- Honouliuli 2015 (HI)
- Pullman 2015 (IL)
- Waco Mammoth 2015 (TX)
- Castle Mountain 2016 (CA)
- Belmont-Paul Woman’s Equality 2016 (NY)
- Stonewall 2016 (NY)
- Katahdin Woods and Waters 2016 (ME)
- Birmingham Civil Rights 2017 (AL)
- Freedom Riders 2017 (AL)
- Reconstruction Era 2017 (SC)

Question #10: What national park system national monuments (including those now incorporated into national parks) were declared by Republican Presidents?

National Monument and the Republican President who proclaimed (or enlarged) it.

African Burial Ground – George W. Bush

Arches – Hoover

Aztec Ruins – Harding (Coolidge)
Big Hole Battlefield – Taft
Black Canyon – Hoover
Bryce – Harding
Carlsbad Caverns – Coolidge (Hoover)
Castle Pinckney (disestablished by Congress) – Coolidge
Chaco Canyon – Roosevelt and Coolidge
Chesapeake and Ohio Canal - Eisenhower
Chiricahua – Coolidge
Cinder Cones and Lassen Peak (now Lassen Volcanic NP) – Roosevelt
Colonial (now Colonial NHP) – Hoover
Colorado – Taft (Hoover)
Craters of the Moon – Coolidge (Hoover)
Death Valley - Hoover
Devil's Postpile – Taft
Devils Tower – Roosevelt (nation's first Antiquities Act monument)
El Morro – Roosevelt
Fr. Millet Cross (disestablished by Congress) – Coolidge
Ft. Matanzas – Coolidge
Ft Marion (now Castillo de San Marcos) - Coolidge
Ft. Pulaski – Coolidge (Eisenhower)
Fossil Cycad (disestablished by Congress) - Harding
George Washington Birthplace – Hoover
Gila Cliff – Roosevelt
Glacier Bay – Coolidge
Gran Quivira – Taft
Grand Canyon – Roosevelt
Grand Canyon 2 – Hoover
Great Sand Dunes – Hoover
Holy Cross – (disestablished by Congress) Hoover
Hovenweep – Harding
Jewel Cave – Roosevelt
Lava Beds – Coolidge
Lehman Caves – Harding
Lewis and Clark (disestablished by Congress) – Roosevelt
Meriwether Lewis (incorporated into Natchez Trace Parkway) – Coolidge
Montezuma Castle – Roosevelt
Mound City – Harding
Mount Olympus (incorporated into Olympic) - Roosevelt
Muir Woods – Roosevelt
Mukuntuweap (now Zion) – Taft
Natural Bridges – Roosevelt
Navajo – Taft
Oregon Caves – Taft
Petrified Forest – Roosevelt (Taft, Hoover)
Pinnacles – Roosevelt (Harding, Coolidge and Hoover)

Pipe Spring – Taft
Rainbow Bridge – Taft
Saguaro – Hoover
Shoshone Caverns (disestablished by Congress) - Taft
Sitka – Taft
Statue of Liberty – Coolidge
Sunset Crater – Hoover
Timpanogos Cave – Harding
Tonto – Roosevelt
Tumacacori – Roosevelt (Eisenhower)
Wheeler (disestablished by Congress) - Roosevelt
White Sands – Hoover
Wupatki – Coolidge

NOTE: The above list is not exhaustive insofar as Republican Presidents who enlarged national monuments proclaimed by Republican predecessors. Nor does it include Republican Presidents who enlarged a national monument proclaimed by a Democratic President. The point of this question and answer is to illustrate the numerous occasions that Republican President have employed the Antiquities Act to withdraw and reserve Federal lands to conserve the nation's patrimony. Additions are invited.

Every Republican President since 1906 has declared an Antiquities Act national monument except for Richard Nixon, Ronald Reagan and George H.W. Bush. Nor did any of these three Presidents add lands to an existing national monument under their Antiquities Act powers. President Gerald Ford never created a new national monument but Ford added a total of 86 acres to two existing national monuments (Buck Island Reef and Cabrillo) in 1975 using Antiquities Act proclamations.

Presidents Nixon, Reagan and George H.W. Bush, although they never declared a monument, signed into law bills sent to them by Congress designating “national monuments” in the national park system.

Question # 11: Has a President “unproclaimed” a National Monument proclaimed by a predecessor?

No President has ever revoked an Antiquities Act national monument proclaimed by a predecessor. The Antiquities Act of 1906 authorizes the President, “. . .in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments . . .” 34 STAT. 225 Emphasis added. The Antiquities Act does not authorize the President to “un-declare” an existing national monument.

A contrary argument points to the numerous instances where Presidents added to, redescribed, or even subtracted lands from, an existing monument. The list of Antiquities Act proclamations that expanded existing monuments is very long and need not be reproduced here. The list of Antiquities Act proclamations that reduced the size

of an existing monument is much shorter and deserves a review. The recent history beginning only in 1945 is reproduced below.

1. President Truman reduced Santa Rosa Island (FL) 4,700 acres in 1945
2. President Eisenhower reduced the size of the following national monuments:
 - Arches (UT) 240 acres in 1960
 - Black Canyon of the Gunnison (CO) 470 acres in 1960
 - Colorado (CO) 91 acres in 1959
 - Glacier Bay (AK) 24,925 acres in 1955
 - Great Sand Dunes (CO) 8,805 acres in 1956.
3. President Kennedy reduced Bandelier (NM) 1,043 acres in 1963.

None of the above actions were ever challenged and it appears unquestioned that a President may reduce the size of a national monument declared by a predecessor. The last of the presidential proclamations that reduced the size of a national monument was in 1963. There have been no proclamations reducing an existing monument since.

Question #12: Under what Power Has Congress Enacted the Antiquities Act?

The Constitution provides that “The Congress shall have the power to dispose of and make all needful Rules and Regulations respecting the Territory and other Property belonging to the United States.” Article IV, Section 3, Clause 2. Congress has shared with the President the power to dispose of lands belonging to the United States in many laws throughout the nation’s history. The Antiquities Act of 1906 is only one of those laws.

The Creative Act of 1891 gave the President authority to withdraw and reserve Forest Reserves from public lands. Congress began removing the power it gave the President to withdraw and set aside federal lands as reservations as early as 1907. In 1907 Congress tolled this power in Oregon, Washington, Idaho, Montana, Utah, Wyoming and Colorado, and then in Arizona and New Mexico in 1926. Similarly, in 1919, Congress removed the President’s authority to declare Indian Reservations from the public lands. (See 43 U.S.C. 150)

In 1976 Congress enacted the Federal Land Policy and Management Act (FLPMA). That law is the Organic Act for the Bureau of Land Management. One aspect of FLPMA was to repeal virtually all of the President’s remaining authority to withdraw lands and set them aside as reservations. But, *the one remaining authority that Congress allowed is the Antiquities Act authority to declare national monuments on federally owned or controlled lands.*

FLPMA also contains a provision that is relevant to the question of existing national monuments. Section 204. (j) provides:

“The Secretary shall not make, modify, or revoke any withdrawal created by an Act of Congress; make a withdrawal which can be

made only by Act of Congress; *modify or revoke any withdrawal creating national monuments under the Act of June 8, 1906...*"

The statute of June 8, 1906 is the Antiquities Act. This FLPMA provision clearly evinces intent by Congress to protect Antiquities Act national monuments from being undone by a successor administration. Yet, the provision explicitly and specifically applies to the Secretary (of the Interior) and not to the President. If a President were to revoke a national monument, it is possible that the lands would still remain "withdrawn" because the Secretary is legally prohibited from revoking the withdrawal. "Withdrawn" means that the lands are closed to mineral leasing, mining claim location, sale or other disposition under the public land laws. This is a tortured argument for a couple of reasons. One is if it is accepted that FLPMA does not allow the President to "revoke" any withdrawal creating a 1906 national monument, then it can be argued that the President may also not be able to "modify" any existing Antiquities Act national monument withdrawal.

Five national monument proclamations (since FLPMA in 1976) have modified an existing national monument withdrawal. These are Carter's modifications (additions) to Glacier Bay and Katmai, and Clinton's modifications (additions) to Buck Island Reef, Craters of the Moon and Pinnacles.

Question #13: Has Congress restricted the President's Authority to Proclaim Monuments under the Antiquities Act?

The limits on the President's power to un-declare a national monument may be unresolved. There is no such equivalent question about Congress' power. Congress can, and has, abolished national monuments. The Property Clause power of Congress is virtually unlimited. Congress has shared that power with the President in the Antiquities Act (and many previous, now repealed, laws). Congress retains the ultimate authority even over the President's declaration of national monuments. Congress exercises that authority within the checks and balances that the Constitution applies to the three co-equal branches.

The best example of this conflict between the Congress and the President arose over the 1943 Jackson Hole National Monument proclamation by Franklin D. Roosevelt. Congress, by vote of both houses, revoked Proclamation No. 2578 - Jackson Hole NM, Wyoming. In December 1944, FDR vetoed the revocation and Congress failed to override by the necessary two-thirds majority. The monument was saved. In 1950 Congress abolished the monument and incorporated it into a new Grand Teton National Park, originally established in 1929. Part of the Jackson Hole National Monument was assigned to the National Elk Range administered by the Fish and Wildlife Service. Congress then had the last word. That same law prohibited the President from declaring a national monument within the State of Wyoming again. The 1950 Grand Teton Act provided:

"No further extension or establishment of national parks or monuments in Wyoming may be undertaken except by express authorization of the Congress." (64 STAT. 849)

There exists another State-specific limitation on potential national monument proclamations. In Alaska, congressional approval is required for withdrawals of more than 5,000 acres. The Alaska National Interest Lands Conservation Act of 1980 provided:

“No future executive branch action which withdraws more than five thousand acres, in aggregate, of public lands within the State of Alaska shall be effective except by compliance with this subsection. To the extent authorized by existing law, the President or the Secretary may withdraw public lands in the State of Alaska exceeding five thousand acres in the aggregate, which withdrawal shall not become effective until notice is provided in the Federal Register, and to both Houses of Congress. Such withdrawal shall terminate unless Congress passes a joint resolution of approval within one year after the notice of such withdrawal has been submitted to Congress.” 16 U.S.C. 3213, 94 STAT. 2488

This provision would not preclude a presidential proclamation declaring a monument under 5,000 acres in Alaska. Technically this provision would not prohibit a presidential proclamation declaring a monument over 5,000 acres IF there were no “withdrawal” of the lands included. However, there has never been an Antiquities Act proclamation declaring a national monument that did not withdraw and reserve Federal lands. Effectively, this provision prevents a presidential proclamation of a 5,000 acre (or more), standard national monument in Alaska, except if Congress consents to it within one year.