

Congress of the United States
House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-5051

<http://oversight.house.gov>

March 1, 2017

The Honorable Ryan Zinke
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

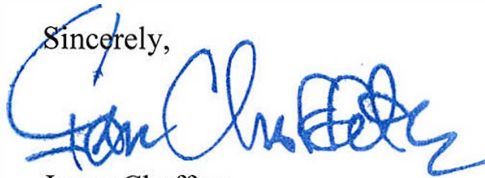
Dear Mr. Secretary:

The Committee currently has certain pending requests for documents and information with the Department of the Interior. As the Department transitions to new leadership, I reiterate these requests here. For your ready reference, I have attached them hereto.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X.

Please have your staff contact Melissa Beaumont of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your cooperation in this matter.

Sincerely,



Jason Chaffetz
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

Enclosures

Attachments

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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October 16, 2015

The Honorable Neil Kornze
Director
U.S. Bureau of Land Management
1849 C Street NW, Room 5665
Washington, DC 20240

Dear Director Kornze:

The hydraulic fracturing rule finalized by the Bureau of Land Management in March 2015 will impinge on thousands of wells, impose significant costs, and expand federal oversight of hydraulic fracturing operations in the West.¹ As a result, several states, including Utah and Wyoming, Indian tribes and other affected parties, have litigated to prevent the rule from being implemented.² On September 30, 2015, a federal judge in Wyoming granted an injunction that blocked the rule on the grounds that BLM exceeded its authority to regulate hydraulic fracturing.³

Given the controversy surrounding this rule, and the impact that it will have on the West, the Committee is reviewing the process by which the rule was made. To assist the Committee, please provide the following documents and information:

1. All documents and communications that comprise the full administrative record relating to the hydraulic fracturing rule issued by BLM on or about March 20, 2015.
2. All documents and communications, including, but not limited to, maps, charts, diagrams, photos, logs, illustrations, memoranda, guidelines, orders, instructions, regulations, journals, notes, periodicals, studies, proposals, meeting minutes/agendas, agreements, reports, contracts, matrices, comments, correspondence, lists, and presentations, referring or relating to the hydraulic fracturing rule.

¹ Michelle Ye Hee Lee, *You can't trust the numbers on the new fracking regs*, WASH. POST, Mar. 30, 2015, available at <http://www.washingtonpost.com/blogs/fact-checker/wp/2015/03/30/you-cant-trust-the-numbers-on-the-new-fracking-regs/> (last visited Sep. 30, 2015).

² Ann Butler, *BLM fracking rule stayed*, DURANGO HERALD, June 24, 2015.

³ Tom Morton, *Judge Grants Injunction Blocking Fracking in Favor of Energy Groups, States, Tribe*, K2 RADIO WYOMING, Sep. 30, 2015, available at <http://k2radio.com/judge-grants-injunction-blocking-fracturing-in-favor-of-energy-groups-states-tribe/> (last visited Sep. 30, 2015).

The Honorable Neil Kornze

October 16, 2015

Page 2

It is our understanding that much of this information has already been gathered as part of the litigation process and we expect that BLM will produce those records promptly. Records that BLM has withheld from plaintiffs as privileged should also be produced pursuant to this request.

Please provide the requested information as soon as possible, but no later than 5:00 p.m. on October 30, 2015. An attachment to this letter provides additional information about responding to the Committee's request. When producing documents to the Committee, please deliver production sets to the OGR Majority staff in room 2157 of the Rayburn House Office Building and the OGR Minority staff in room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

Please contact Bill McGrath of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,



Jason Chaffetz
Chairman



Cynthia Lummis
Chairman
Subcommittee on the Interior

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

Enclosure

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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<http://oversight.house.gov>

February 4, 2016

The Honorable Neil Kornze
Director
U.S. Bureau of Land Management
1849 C Street NW, Room 5665
Washington, D.C. 20240

Dear Director Kornze:

The Committee has become aware of increasing complaints about Bureau of Land Management activities in Nevada and Utah. State officials have asserted that BLM law enforcement agents use tactics that amount to “bullying, intimidation and . . . lack of integrity.”¹ Those tactics have undermined safety in rural communities and strained local law enforcement budgets. In particular, BLM’s officers allegedly harass citizens and tourists, interfere with the work of local law enforcement, operate outside of their jurisdictions, and refuse to cooperate with local officials.² The situation has led some local counties to declare the presence of BLM law enforcement in Utah and Nevada “a threat to the health, safety and welfare of their citizens.”³

Last year, BLM law enforcement terminated long-standing contracts with county sheriffs in Utah. Under those agreements, BLM compensated local law enforcement officers for patrolling public lands, handling emergency and rescue operations, and providing crucial police oversight during busy periods.⁴ This decision created a law enforcement vacuum in the area and caused serious financial problems for local governments. As one county official from Utah stated, “BLM’s Chief of Law Enforcement cancelled the agreement leaving Garfield County with a significant budget shortfall and staff operating in an area without an agreement.”⁵

¹ *Threats, Intimidation and Bullying by Federal Land Managing Agencies, Part II. before the Subcomm. on Public Lands and Env’tl Regulation.*, 113th Cong. (2014) (Testimony of Leland F. Pollock, Commissioner, Garfield Cty, UT), available at <http://naturalresources.house.gov/uploadedfiles/pollocktestimony7-24-14.pdf>.

² *Id.*

³ Brian Maffley, *BLM, Utah Counties Wrangle Over Law Enforcement*, THE SALT LAKE TRIB., June 19, 2014.

⁴ *Id.*

⁵ *Supra*, note 1.

The press reported on allegations that the contracts were cancelled as retribution for state legislation passed in 2013 to limit federal police powers on public lands.⁶

Moreover, during the summer of 2015, BLM law enforcement demanded a more than \$1 million increase to the permit price for the annual *Burning Man* event in Nevada's Black Rock Desert to fund amenities for BLM agents.⁷ The demands were unrelated to providing safety and security, and instead included having laundry facilities, 24-hour access to ice cream, air conditioning, and vanity mirrors.⁸ BLM eventually withdrew its demands and granted the permit,⁹ but only after a significant public outcry, including intervention by Senator Harry Reid (D-NV), who criticized these "outlandishly unnecessary facilities."¹⁰

In order to help the Committee better understand BLM's changing role, please provide the following documents and information:

1. All documents and communications referring or relating to BLM's decision to terminate or not renew contracts with Utah sheriffs;
2. All documents and communications referring or relating to the BLM permit for *Burning Man* in 2015, and demands made by BLM law enforcement relating to the event;
3. All communications between BLM law enforcement personnel and state and local officials in Utah and Nevada, including elected officials, county commissioners and state/local law enforcement, from January 2009 to the present; and
4. All communications between BLM law enforcement personnel referring or relating to state and local officials in Utah and Nevada, including elected officials, county commissioners and state/local law enforcement from January 2009 to the present.

Please provide the requested information as soon as possible, but no later than by 5:00 p.m. on February 18, 2016. An attachment to this letter provides additional information about responding to the Committee's request. When producing documents to the Committee, please deliver production sets to the OGR Majority staff in room 2157 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

⁶ *Supra*, note 3.

⁷ Jenny Kane, *RGJ Exclusive: BLM Wants \$1 Million VIP Compound From Burning Man*, RENO GAZETTE JOURNAL, June 26, 2015.

⁸ *Id.*

⁹ Assoc. Press, *Burning Man Gets Black Rock Site Permit, BLM Scraps 'Lavish' Request*, BILLBOARD, Aug. 10, 2015.

¹⁰ Jenny Kane, *Reid to BLM: You want flush toilets at Burning Man? Go to Gerlach*, RENO GAZETTE-JOURNAL, June 29, 2015.

The Honorable Neil Kornze

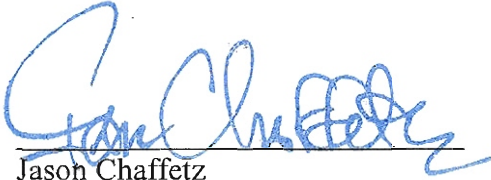
January 29, 2016

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The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

Please contact Bill McGrath of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,



Jason Chaffetz
Chairman



Cynthia M. Lummis
Chairman
Subcommittee on the Interior

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

Congress of the United States

Washington, DC 20515

March 29, 2016

The Honorable Sally Jewell
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Madam Secretary:

On February 12, 2016, the White House designated 1.8 million acres of land in California for conservation under the Antiquities Act of 1906.¹ The designation, which created three new national monuments in the California desert, nearly doubled the total amount of land set aside as national monuments by the President during his time in office.² In fact, the President has used the Antiquities Act to unilaterally designate approximately 265 million acres of land and water as national monuments—far more than any previous President.³

The broad and frequent application of the Antiquities Act raises questions about the lack of transparency and consultation with local stakeholders leading up to the President's designation of national monuments. To help the Committees understand how and why certain areas are designated for conservation, please provide the following documents:

1. All documents and communications referring or relating to the selection or designation of national monuments under the Antiquities Act of 1906 by the President from January 1, 2015, to the present.

Please provide the requested information as soon as possible, but no later than 5:00 p.m. on April 12, 2016. When producing documents to the Committees, please deliver production sets to the Committee on Oversight and Government Reform Majority staff in Room 2157 of the Rayburn House Office Building and Minority staff in Room 2471 of the Rayburn House Office Building; the Committee on Natural Resources Majority staff in Room 1324 of the Longworth House Office Building and Minority staff in Room 1329 of the Longworth House Office Building; and to the Committee on Appropriations Majority staff in H-305 of the Capitol Building and Minority staff in 1016 Longworth House Office Building. The Committees strongly prefer to receive all documents in electronic format.

¹ White House Fact Sheet: President Obama to Designate New National Monuments in the California Desert (Feb. 12, 2016), *available at* <https://www.whitehouse.gov/the-press-office/2016/02/12/fact-sheet-president-obama-designate-new-national-monuments-california>.

² Jenny Rowland, *Obama Designates Three New National Monuments In The California Desert*, CLIMATE PROGRESS, Feb. 12, 2016.

³ Timothy Cama, *Obama sets aside 1.8M California desert acres as monument*, THE HILL, Feb. 12, 2016.

The Honorable Sally Jewell

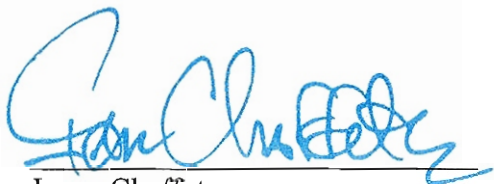
March 29, 2016

Page 2

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X. The Committee on Natural Resources has broad jurisdiction with regard to the Department of the Interior and regarding relations of the United States with Native Americans and Native American tribes, public lands generally, fisheries and wildlife, mining interests generally and irrigation and reclamation as well. The Committee on Appropriation's jurisdiction includes the organization and operation of executive departments and agencies.

Please contact William McGrath of the Committee on Oversight and Government Reform staff at (202) 225-5074, or Spencer Kimball of the Committee on Natural Resources staff at (202) 226-7736, or Dave LesStrang of the Committee on Appropriations at (202) 225-2771 with any questions about this request. Thank you for your prompt attention to this important matter.

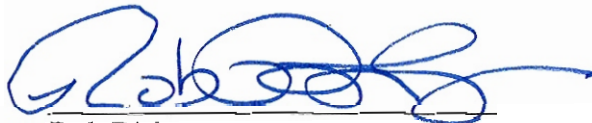
Sincerely,



Jason Chaffetz

Chairman

Committee on Oversight and Government Reform



Rob Bishop

Chairman

Committee on Natural Resources



Harold Rogers

Chairman

Committee on Appropriations

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member
Committee on Oversight and Government Reform

The Honorable Raul M. Grijalva, Ranking Member
Committee on Natural Resources

The Honorable Nita M. Lowey, Ranking Member
Committee on Appropriations

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

MAJORITY (202) 225-5074
MINORITY (202) 225-6081

<https://oversight.house.gov>

May 11, 2016

The Honorable Sally Jewell
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Madam Secretary:

In a letter dated March 29, 2016, this Committee, along with the House Committees on Natural Resources and on Appropriations, requested information related to use of the Antiquities Act of 1906.¹ As outlined in that letter, the Committees are interested in the Administration's process for using the Act. Specifically, the Committees requested documents and communications from the Council on Environmental Quality (CEQ) and the Department of the Interior referring or relating to the selection or designation of national monuments under the Antiquities Act of 1906 by the President from January 1, 2015, to the present. The letter requested these materials by April 12, 2016. A similar request was sent to CEQ.

Since the Department received that letter, it has not provided a single responsive document to the Committees, or even an official response stating when the Department intends to do so. In fact, the Committees have only received an official response from CEQ, which vaguely indicated that the Committees should expect the Department to respond on its behalf at some point in the future. If the Department does not produce these documents voluntarily by 5:00 p.m. on May 25, 2016, the Committee will be required to issue a subpoena to obtain them.

Additionally, in order to better understand the Administration's use of the Antiquities Act, the Committee requests a transcribed interview with DOI employee Nikki Buffa not later than May 25, 2016.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

¹ Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform, Hon. Rob Bishop Chairman, H. Comm. on Nat. Resources, and Hon. Harold Rogers, Chairman, H. Comm. on Appropriations, to Ms. Christy Goldfuss, Man. Dir., Council on Environmental Quality, (Mar. 29, 2016).

The Honorable Sally Jewell

May 11, 2016

Page 2

Please contact Bill McGrath of the Committee staff at (202) 225-5074 to schedule Ms. Buffa's interview, or with any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,



Jason Chaffetz
Chairman



Cynthia M. Lummis
Chairman
Subcommittee on the Interior

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

The Honorable Rob Bishop, Chairman
Committee on Natural Resources

The Honorable Harold Rogers, Chairman
Committee on Appropriations

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August 4, 2016

The Honorable Neil Kornze
Director
U.S. Bureau of Land Management
1849 C Street NW, Room 5665
Washington, D.C. 20240

Dear Director Kornze:

On October 2, 2015, the Bureau of Land Management (BLM) California State Office issued a decision regarding the Cadiz Valley Water Conservation Recovery and Storage Project's use of a right-of-way on BLM land pursuant to the General Railroad Right-of-Way Act of 1875. For years, the Act has been interpreted to allow railroads to extend rights-of-way to third parties on BLM land without prior authorization from the agency,¹ until a November 4, 2011, memorandum from the Department of the Interior Office of the Solicitor changed this interpretation.² After the memorandum, in order for a third party to obtain a railroad right-of-way, the proposed use must advance a railroad purpose.³ In its recent decision concerning the Cadiz project, BLM decided that the project did not "originate from a railroad purpose" despite the fact that the project brought recognizable benefits to the railroad.⁴

The Committee is concerned that the November 4, 2011, memorandum may have been specifically drafted for the purpose of denying a permit to the Cadiz project. Documents obtained by the Committee also raise concerns about the level of coordination between BLM and private interests with respect to the Cadiz decision.

Emails obtained by the Committee show a Realty Specialist in BLM's California State office regularly communicated with an employee at Whetstone Capital Advisors, LLC about the Cadiz Project and the right-of-way authorization process it was unfolding.⁵ Cadiz Inc. is a publicly traded company, and the permit decision would affect the company's financial outlook.

¹The General Railroad Right of Way Act of 1875 (Mar 3, 1875), ch. 152, 18 Stat. 482.

²Memorandum from the Dep't of the Interior Office of the Solicitor to BLM, "Partial Withdrawal of M-36964-Proposed Installation of MCI Fiber Optic Communications Line Within Southern Pacific Transportation Co.'s Railroad Right-of-Way" (Nov. 4, 2011).

³*Id.*

⁴Letter from James Kenna, CA State Dir., BLM, to Jason Perry, Genesee & Wyoming Inc. and Scott Slater, Cadiz, Inc. (Oct. 2, 2015).

⁵Email from Mr. Erik Pignata, Realty Specialist, BLM, to Thomas McGannon, Whetstone Capital (Sept. 23, 2014).

Whetstone is a “Kansas City-based value oriented investment manager,” according to the fund’s website.⁶ Specifically, the emails show the BLM Realty Specialist shared information related to the potential approval of the Cadiz project with Whetstone.⁷ He also shared information from a meeting of senior BLM officials regarding the Department’s evaluation of the project,⁸ and his opinions on how the project was progressing.⁹

The emails obtained by the Committee raise questions about BLM’s decision-making process with respect to the Cadiz project. The emails also implicate executive branch ethics guidelines, including Executive Order 12731 which states, “Employees shall act impartially and not give preferential treatment to any private organization or individual.”¹⁰ E.O. 12731 also states, “Employees shall not engage in financial transactions using nonpublic government information or allow the improper use of such information to further any private interest.”¹¹

To help the Committee understand the Department’s decision on the Cadiz project, please provide the following documents and information:

1. All documents and communications between any Bureau of Land Management employee and any employee of Whetstone Capital, since June 1, 2014.
2. All documents and communications to or from any employee of the Bureau of Land Management, since June 1, 2014, referring or relating to:
 - a. Whetstone Capital;
 - b. the partial withdrawal of M-36964 by the Department of the Interior Office of the Solicitor;
 - c. The Cadiz Valley Water Conservation Recovery and Storage Project; and
 - d. The railroad purpose of the Cadiz Valley Water Conservation Recovery and Storage Project.

Please provide the requested information as soon as possible, but no later than by 5:00 p.m. on August 18, 2016.

⁶ Whetstone Capital Advisors, LLC website, *available at* <http://whetstone-capital.com/home>.

⁷ Email from Erik Pignata, Realty Specialist, BLM, to Thomas McGannon, Whetstone Capital (June 18, 2015).

⁸ Email from Erik Pignata, Realty Specialist, BLM, to Thomas McGannon, Whetstone Capital (Sept. 23, 2015).

⁹ Email from Erik Pignata, Realty Specialist, BLM, to Thomas McGannon, Whetstone Capital (Oct. 1, 2015).

¹⁰ U.S. Office of Govt. Ethics, “Executive Order 12731 of October 17, 1990 Principles of Ethical Conduct for Government Officers and Employees,” *available at* [https://www2.oge.gov/Web/OGE.nsf/All%20Documents/25792F3D2FF647AF85257E96006A90F1/\\$FILE/f69da5359a134002808b96ca703cc4692.pdf?open](https://www2.oge.gov/Web/OGE.nsf/All%20Documents/25792F3D2FF647AF85257E96006A90F1/$FILE/f69da5359a134002808b96ca703cc4692.pdf?open).

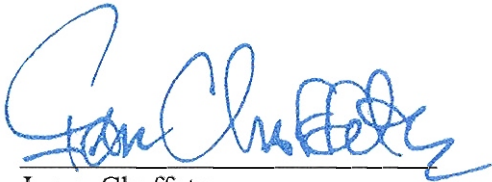
¹¹ *Id.*

Additionally, please make Mr. Erik Pignata, BLM Realty Specialist, available for a transcribed interview as soon as possible, but no later than August 18, 2016.

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When producing documents to the Committee, please deliver production sets to the Majority staff in room 2157 of the Rayburn House Office Building and the Minority staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format. An attachment to this letter provides additional information about responding to the Committee's request.

Please contact Melissa Beaumont of the Committee staff at (202) 225-5074 with any questions about this request. Thank you for your prompt attention to this matter.



Jason Chaffetz
Chairman

Sincerely,



Cynthia M. Lummis
Chairman
Subcommittee on the Interior

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

Congress of the United States
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September 9, 2016

The Honorable Sally Jewell
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Madam Secretary:

The Department of the Interior has failed to respond to a series of requests for documents and information related to the Committee's oversight and investigative initiatives. The same challenges that have thus far prevented the Department from complying with the Committee's requests may also be affecting the Department's ability to fulfill its responsibilities under the Freedom of Information Act (FOIA).

To help the Committee understand how and why the Department is unable to comply with document requests in a timely and complete manner, please provide a briefing for Committee staff and a tour of the Department's resources for responding to document requests from Members of Congress and FOIA requests. The briefing and tour will assist the Committee's effort to identify ways by which the Department can improve the timeliness and completeness of its responses to such document requests.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X.

Please have your staff contact Melissa Beaumont of Chairman Chaffetz' staff at (202) 225-5074 to schedule the briefing and tour, or with any questions about this request. Thank you for your cooperation in this matter.



Jason Chaffetz
Chairman

Sincerely,



Mark Meadows
Chairman
Subcommittee on Government Operations



Cynthia M. Lummis
Chairman
Subcommittee on the Interior

The Honorable Sally Jewell
September 9, 2016
Page 2

cc: The Honorable Elijah E. Cummings, Ranking Member

The Honorable Gerald E. Connolly, Ranking Member
Subcommittee on Government Operations

The Honorable Brenda L. Lawrence, Ranking Member
Subcommittee on the Interior

Congress of the United States
House of Representatives

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December 29, 2016

The Honorable Sally Jewell
Secretary
U.S. Department of the Interior
1849 C Street NW
Washington, D.C. 20240

Dear Madame Secretary:

On December 28, 2016, President Obama designated the Bears Ears National Monument in Utah and the Gold Butte National Monument in Nevada pursuant to his authority under the Antiquities Act.¹ Advocates for this action touted it as a means to establish a co-management agreement for Bears Ears between the federal government and a group of Native American tribes.² In fact, in the press release announcing these new national monuments, the White House recognizes the importance of tribal participation in the management of the land and asserts this action serves as a tool to achieve co-management.³ Co-management of public lands, however, requires the approval of Congress.⁴ Advocacy organizations, federal agencies, and the White House have all put out differing opinions on co-management, and it is important to clarify the bounds of the President's authority. I am writing to obtain more information about how and why the President exercised his authority in this case.

¹ *Rumors point toward possible December 23 designation. Anxiety builds over possible national monument*, SAN JUAN RECORD, Dec. 13, 2016, available at http://www.sjrnews.com/view/full_story/27329673/article-Rumors-point-toward-possible-December-23-designation--Anxiety-builds-over-possible-national-monument-?instance=home_news_left.

² Amy Jol O'Donoghue, *Native American chairman says Jewell order lacks equality for tribes*, DESERET NEWS, Oct. 21, 2016, available at <http://www.deseretnews.com/article/865665388/Bears-Ears-coalition-leader-says-Jewell-order-lacks-equality-for-tribes.html?pg=all>.

³ FACT SHEET: President Obama to Designate New National Monuments Protecting Significant Natural and Cultural Resources in Utah and Nevada, , <https://www.whitehouse.gov/the-press-office/2016/12/28/fact-sheet-president-obama-designate-new-national-monuments-protecting>.

⁴ See *U.S. Telecom Ass'n v. FCC*, 359 F.3d 554, 565-66 (D.C. Cir. 2004) (“[S]ubdelegations to outside parties are assumed to be improper absent an affirmative showing of congressional authorization When an agency delegates authority to its subordinate, responsibility—and thus accountability—clearly remain with the federal agency. But when an agency delegates power to outside parties, lines of accountability may blur, undermining an important democratic check on government decision-making. Also, delegation to outside entities increases the risk that these parties will not share the agency’s “national vision and perspective”). See also *High Country Citizens’ Alliance v. Norton*, 448 F. Supp. 2d 1235, 1246-1247 (D. Colo. 2006) (similar, citing *U.S. Telecom*).

The President has exercised his authority under the Antiquities Act to create or expand at least 25 national monuments—more than any other president in history.⁵ His sweeping application of the Antiquities Act raises questions about the Administration's commitment to transparency and consultation with local stakeholders with respect to designating national monuments. It also raises serious questions about whether these designations are limited to the, "smallest area compatible with proper care and management of the objects to be protected."⁶ The Antiquities Act "was designed to protect federal lands and resources quickly" in response to concerns about "theft from and destruction of archaeological sites."⁷ In most cases, however, the processes outlined by the National Environmental Policy Act (NEPA) and the Federal Land Policy Management Act (FLPMA) are most appropriate because they require environmental studies, a review of the public purpose, and an opportunity for public participation before any federal agency action.⁸ The NEPA and the FLPMA processes provide for a more thoughtful determination, whereas the Antiquities Act was meant to be reserved for emergency scenarios.

Until yesterday, the Administration's actions with respect to Bears Ears more closely resembled the NEPA and FLPMA process. In anticipation of the Bears Ears designation, the Department of the Interior took on a large role in gathering input and coordinating planning.⁹ You, Secretary Jewell, visited the potential site for a listening session.¹⁰ In fact, during a hearing before the Subcommittee on the Interior, Bureau of Land Management (BLM) Director Neil Kornze testified that BLM and the White House have been coordinating.¹¹ It is therefore unclear why the President opted to designate a massive national monument in Utah via the Antiquities Act in the waning days of his presidency, and to ignore federal environmental and procedural laws enacted to ensure stakeholders and other affected parties have a meaningful role in determining the outcome.

Similarly, the President's actions with regard to the Gold Butte National Monument designation bypassed Congress and the public. Located in Clark County, Nevada, the Gold Butte National Monument spans nearly 300,000 acres.¹² Such a large designation, made unilaterally, deprives the American people and their elected representatives a collaborative discussion on how best to protect the land for all to enjoy. Large designations such as Gold Butte Monument are the type of major federal agency action envisioned by our federal environmental and procedural laws.

⁵ H. Sterling Burnett, *Obama's Dangerous Use of The National Monument law*, FORBES, Oct. 12 2016.

⁶ Antiquities Act of 1906, 54 U.S.C. §§320301-320303

⁷ Carol Hardy Vincent, "National Monuments and the Antiquities Act," Cong. Research Serv. (2016) (R41330).

⁸ *Id.*

⁹ Amy Jol O'Donoghue, *Bears Ears Controversy Ramps Up With Jewell's Visit; Bishop's Planned Legislation*, KSL NEWS, July 13, 2016, available at <https://www.ksl.com/?sid=40632616&nid=148&title=bears-ears-controversy-ramps-up-with-jewells-visit-bishops-planned-legislation>.

¹⁰ *Id.*

¹¹ *Examining BLM Public Lands Leasing Hearing Before the Subcomm. on the Interior of the H. Comm. on Oversight and Gov't Reform*, 114th Cong. 14 (2016) (statement of Neil Kornze, Director, Bureau of Land Management) (Mr. Kornze: "I am talking about looking at the country and figuring out where would this be appropriate, where would it not?" Mr. Gosar: "So there is some conversation going on between the White House and BLM and agencies in regards to antiquities withdrawal?" Mr. Kornze: "Yes.").

¹² See *supra* note 3.

Furthermore, in a letter dated March 29, 2016, this Committee, along with the House Committees on Natural Resources and on Appropriations, requested information related to use of the Antiquities Act of 1906.¹³ After receiving an inadequate response, a follow up letter was sent on May 11, 2016.¹⁴ As outlined in both letters, the Committees are interested in the Administration's process for using the Antiquities Act. Specifically, the Committees requested documents and communications from the Council on Environmental Quality and the Department of the Interior (DOI) referring or relating to the selection or designation of national monuments under the Antiquities Act of 1906 by the President from January 1, 2015, to the present.

To date, DOI has only provided a very limited response to the Committee that largely consisted of public statements and news clippings. If the Department does not produce these documents voluntarily, the Committee will be required to obtain them through compulsory measures.

Please immediately provide the documents requested in the Committee's March 29th and May 11th letters. In addition, please produce the following documents as soon as possible, but not later than January 13, 2016:

1. All calendars, including all meetings and attendees, for all DOI employees involved or referenced in any discussions related to any national monument selection or designation.
2. The daily schedules and call logs for Secretary Jewell, Tommy Beaudreau, Nikki Buffa and Neil Kornze from April 21, 2013 to present.
3. All communications between any DOI employee and White House staff, including but not limited to Senior Advisor Brian Deese, between January 2015 and present.
4. All documents and communications referring or related to the selection or designation of national monuments under the Antiquities Act of 1906 by the President from April 21, 2013 to present.
5. All documents and communications related to the reduction in size, limitation, or repeal of a national monument from January 20, 2008 to present.

¹³ Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform, Hon. Rob Bishop Chairman, H. Comm. on Nat. Resources, and Hon. Harold Rogers, Chairman, H. Comm. on Appropriations, to Hon. Sally Jewell, Secretary, U.S. Department of the Interior (Mar. 29, 2016).

¹⁴ Letter from Hon. Jason Chaffetz, Chairman, H. Comm. on Oversight and Gov't Reform, and Hon. Cynthia Lummis, Chairman, H. Comm. on Oversight and Gov't Reform Subcommittee on the Interior, to Hon. Sally Jewell, Secretary, U.S. Department of the Interior (May 11, 2016).

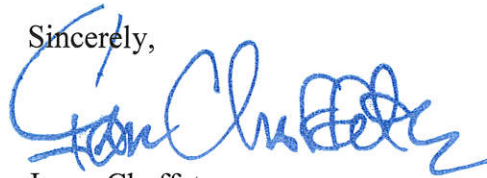
The Honorable Sally Jewell
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Additionally, please make available for transcribed interview the following three DOI officials as soon as possible, but not later than January 20, 2016: Bureau of Land Management Director Neil Kornze; your Chief of Staff Tommy Beaudreau; and DOI employee Nikki Buffa.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and has broad authority to investigate "any matter" at "any time" under House Rule X.

Please contact Chris Esparza of the Committee staff at (202) 225-5074 to schedule the interviews, or with any questions about this request. Thank you for your prompt attention to this matter.

Sincerely,



Jason Chaffetz
Chairman

cc: The Honorable Elijah E. Cummings, Ranking Minority Member