

Last Thursday, Secretary Zinke submitted a report to President Trump, recommending changes to national monuments. Although Trump's [Executive Order](#) in April called for a "final report" within 120 days—the deadline was Thursday—the Interior Department's [press release](#) called the report a "draft." And as Holly Doremus [explained](#) on this blog, it has still not been made public.

While we don't know exactly what is in Zinke's report, the [Washington Post reported](#) that it targets three monuments in particular: Bears Ears and Grand Staircase-Escalante National Monuments in Utah, and Cascade-Siskiyou National Monument in Oregon. The [New York Times then reported](#) that a fourth, unnamed monument would be reduced.

What is clear is that the monument review process has been arbitrary, opaque, and full of mischaracterizations.

In the Associated Press article from Thursday (here's the [link to it at Politico](#)), Zinke tried to cast his recommendations as minimal or moderate, saying that only a "handful" of monuments would be targeted for downsizing. He also blamed monument supporters, saying they were making his review seem worse than it is:

"I've heard this narrative that somehow the land is going to be sold or transferred," Zinke said. "That narrative is patently false and shameful. The land was public before and it will be public after."

Of course, Zinke failed to mention the rather obvious reasons why people might get the wrong idea about the status of the lands (and oceans) where national monuments have been designated. In April, President Trump [called monuments](#) a "massive federal land grab," and [said that](#) "we're putting the states back in charge."

Monuments are only created on federal land, and the federal government, rather than the states, has always had the authority—granted to Congress in the Property Clause of Article IV of the Constitution—to manage the protection and/or development and use of federal public lands. But it has been the President—and Republican Members of Congress—that have been driving the narrative that monuments are a "land grab" and that the Administration's policy is to undo this. Further, for most people, the distinction between selling public lands and leasing the lands for mineral extraction, for example, probably doesn't sound all that different.



Secretary Ryan Zinke (photo by Gage Skidmore)

Digging into the short [“report summary”](#) that the Interior Department released on Thursday, there are numerous indications that the Secretary misunderstands the law on national monuments and that his process has only been transparent in the sense that it has led to a predetermined, politically-motivated outcome.

Zinke’s criticism of the national monuments centers on a claim that recent monuments—designated by Presidents Clinton, George W. Bush, and Obama—are different in character than those that were created in the early days of the Antiquities Act. Zinke argues that early monuments “focused more on geological formations, archaeological ruins, and areas of historical interest,” while more recent monuments have extended the criteria to include “landscaped areas, biodiversity, and view sheds.” This is a cherry-picked interpretation of the law and of presidential practice in designating monuments. (Sean Hecht elaborated more on this point [in this post](#); Sean and I also addressed this in the [comment letter we submitted](#) to Secretary Zinke in July.)

The Antiquities Act’s standard for national monuments is not limited to geology, archaeology, and history—it is written to include any “object of historic or scientific interest” for which the President concludes that protection is needed.

Many early monuments were created precisely to protect biodiversity, landscapes, and other objects of scientific interest. Three quick examples from the first three years of the Antiquities Act:

- *Muir Woods* (1908). Teddy Roosevelt created the Muir Woods National Monument to protect “an extensive growth of redwood trees . . . of extraordinary scientific interest” –a clear example of biodiversity as a criterion for protection. (Proclamation No. 793, Jan. 9, 1908, 35 Stat. 2174)
- *Grand Canyon* (1908). The Grand Canyon was originally protected as a National Monument before Congress converted it to a national park. At a size of [808,120 acres](#), the monument designation protected an entire landscape. (Proclamation No. 794, Jan. 11, 1908, 35 Stat. 2175)
- *Mount Olympus* (1909). Mount Olympus National Monument was designated by Teddy Roosevelt in 1909, only three years after the Antiquities Act’s passage. Roosevelt’s proclamation states that the monument is intended to protect “numerous glaciers” as well as “the summer range and breeding grounds for Olympic Elk (*Cervus roosevelti*), a species peculiar to these mountains and rapidly decreasing in numbers[.]” (Proclamation No. 869, March 2, 1909, 35 Stat. 2247)

Recent monuments created by Presidents Clinton, Bush, and Obama fit the pattern established by Teddy Roosevelt and his successors over a century ago.

More problematically, Zinke’s summary report shows the arbitrariness of the review process. Zinke began to describing the reasoning behind choosing which monuments to leave in place and which to recommend cutting from:

“Despite the apparent lack of adherence to the purpose of the Act, some monuments reflect a long public debate process and are largely settled and strongly supported by the local community. Other monuments remain controversial and contain significant private property within the identified external boundary or overlap with other Federal land designations such as national forests, Wilderness Study Areas, and lands specifically set aside by Congress for timber production.”

In Trump’s Executive Order and throughout this review, the Trump Administration has tried to have it both ways—arguing that Clinton and Obama’s national monuments went beyond the criteria of the Antiquities Act, while also claiming, with no basis in the statute, that their own view of what is a sufficient “public debate process” or what is “controversial” is somehow relevant to the law.

In only 120 days, the Administration purported to be able to review 27 monuments, with the

intent of “ensur[ing] that the local voice was heard.” Zinke himself [only visited 8 of them](#), and was roundly [criticized](#) by monument supporters for the brevity of his visits and the relative lack of attention he paid to those in favor of maintaining the monuments. In comparison, prior to designation, Bears Ears was the subject of discussion and planning among Native American leaders, local officials, Members of Congress, and the U.S. government [as far back as 2009](#) (the Navajo Nation President directly asked then-Secretary of the Interior Salazar to consider protecting Bears Ears as a National Monument in 2011). The public debate process continued for several years before Obama’s proclamation last December.

The overwhelming majority of the more than 2 million people who submitted comments to Secretary Zinke voiced their support for the monuments. Zinke has unfortunately waved these comments away and has failed to live up to the [promise he made in April](#) to review national monuments “in a transparent manner.”