

New Article Provides In-Depth Analysis of Limits to Presidential
Authority Under the Antiquities Act | 1

[Updated June 12, 2017 to reflect availability of final published article]

Mark Squillace of University of Colorado, Eric Biber of UC Berkeley, my UCLA colleague Nick Bryner, and I have co-authored a short academic [article](#) (published in [Virginia Law Review](#) Online) about the President's authority to abolish or shrink national monuments. This article provides detailed historical research and analysis that underpins the [op-ed](#) we published in *The Conversation* a couple of weeks ago, [republished here on Legal Planet](#).

On April 26, President Trump issued an [Executive Order](#) tasking the Interior Secretary to review significant monument proclamations issued since 1996 and to make recommendations for action by the President or the Congress. Statements by the Secretary of Interior [make clear that the intention is to reduce the size or scope](#) of monuments. The Department of Interior has [opened an opportunity for public comment](#), stating that "The Secretary of the Interior will use the review to determine whether each designation or expansion conforms to the policy stated in the Executive Order and to formulate recommendations for Presidential actions, legislative proposals, or other appropriate actions to carry out that policy. "

Our article, *Presidents Lack the Authority to Abolish or Diminish National Monuments*, addresses a contemporary issue arising under the Antiquities Act of 1906. That law authorizes the President to set aside federal lands as national monuments in order to protect "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest." Although Presidents of both parties have used the Act to protect over 150 national monuments, opponents of monument designations have called on President Trump to abolish or shrink national monuments that were proclaimed by his predecessors. The article concludes that Congress alone, and not the President, has the legal authority to eliminate or shrink national monuments.

UPDATE, June 12, 2017: The article [has now been published online](#), and is available both in [html](#) and [pdf](#) formats.

The citation is: Mark Squillace, Eric Biber, Nicholas S. Bryner, & Sean B. Hecht, *Presidents Lack the Authority to Abolish or Diminish National Monuments*, 103 Va. L. Rev. Online 55 (2017).

The article is also available at the Social Science Research Network (currently in draft format, soon to be updated to the final version): <http://ssrn.com/abstract=2967807>.

The paper has been revised in the editing process, including some textual revisions and

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added reference materials, so anyone who already read or cited the draft version should update accordingly.