



Photo by C. Schmitt

Can a President “Undo” a National Monument?

Short Answer:

No President has ever abolished a national monument proclamation. Legal analyses since at least the 1930s have concluded that the Antiquities Act does not authorize the President to repeal proclamations, nor is that power implied. However, Presidents can delete acres from national monuments, proclaiming that the acres do not meet Antiquities Act standards and modify the management of national monuments, though the later authority is largely untested.

For more detailed analysis, [check out this report](#) from the Congressional Research Service, prepared for Members and Committees of Congress on November 14, 2016. Here is the summary of that report:

The Antiquities Act of 1906 authorizes the President to declare, by proclamation, that objects of historic or scientific interest on federal lands are designated as national monuments. Over the course of more than a century, Presidents have cited the Antiquities Act as authority for protecting well over 100 land and marine areas, totaling hundreds of millions of acres, as national monuments. National monuments generally are reserved and protected from certain uses such as mineral leasing or mining, although management terms may vary by monument. Partly because of such restrictions, some presidential proclamations of national monuments—and proposals for such proclamations—have led to controversy.

Once a President has proclaimed a national monument on federal land, later Presidents or Congresses may want to abolish, diminish, or otherwise change the monument. Congress has clear authority to do so, largely under the Property Clause of the U.S. Constitution, which provides that “Congress shall have Power to ... make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.” Congress has used its authority to abolish or to remove acreage from national monuments on several occasions.

It appears that presidential authority may be more constrained. No President has ever abolished or revoked a national monument proclamation, so the existence or scope of any such authority has not been tested in courts. However, some legal analyses since at least the 1930s have concluded that the Antiquities Act, by its terms, does not authorize the President to repeal proclamations, and that the President also lacks implied authority to do so. Under this view, once a President has applied the Antiquities Act to protect objects of historic or scientific interest, only Congress can undo that protection. On the other hand, Presidents have deleted acres from national monuments, proclaiming that the deleted acres do not meet the Antiquities Act’s standard that the protected area be the “smallest area compatible with the proper care and management of the objects to be protected.” Presidents also can modify the management of national monuments, although the outer boundaries of this authority, too, appear to be untested. Under the Federal Land Policy and Management Act of 1976 (FLPMA), executive branch officials other than the President are barred from modifying or revoking any withdrawal creating national monuments under the Antiquities Act.

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