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The Case for Preserving Bears Ears

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ABSTRACT

In December of 2017, President Trump reduced the size of Bears Ears and Grand Staircase-Escalante Monuments by 2 million acres. Conservatives rejoiced, and progressives railed. Yet neither side has clearly identified the moral facets of the situation. The crucial moral question is this: How ought public property be regulated to protect landscapes with *cultural* significance? We offer criteria for determining when something has cultural value and argue that the moral merits of the present case turn on whether the reduction adequately addresses the cultural interests at play.

Peer Commentary

In December of 2017, President Trump reduced the size of Bears Ears National Monument by 85% and Grand Staircase-Escalante National Monument by 50%. This action raises serious legal questions. Very few presidents have ever shrunk a National Monument, and the courts have not weighed in on whether doing so is within a president's legal powers. But this action also raises serious moral questions. Ought the land be granted the protection that comes with National Monument status? And if so, why? We answer these moral questions with a focus on Bears Ears in particular.

To date, the public debate has yet to clearly identify the central moral facets of the situation. For example, some conservatives have suggested that the issue at stake is about who controls the land—private as opposed to public control or local as opposed to federal control. Along these lines, President Trump said of the decision to reduce the size of the Monuments, 'Some people think that the natural resources of Utah should be controlled by a small handful of very distant bureaucrats located in Washington. And guess what? They're wrong.'¹

This is a red herring. The land in question is public and federally controlled, regardless of National Monument status. And the US Forest Service has made clear that the designation doesn't negatively impact state or private property.² Further, President Obama's National Monument designation actually *increased* regional control of the federal lands by giving formal decision-making roles to *live* tribes with historical connections to the land.³ As such, Bears Ears is the first national monument co-managed by tribes. When President Trump reduced the size of the Bears Ears monument, he also reduced this regional, tribal

Second, consider a case in which few (if any) *existing* people find an object or place valuable, but it is likely that future people will do so. For example, on June 6, 1944, no one found the D-Day beaches valuable in this way. But given the significance of that day's events, even in 1944 it was clear that future people would likely come to value the beaches for their historic and cultural value.

The case of Bears Ears meets both conditions for establishing a cultural interest. First, there are a significant number of people who find the landscape and Native sites to be rich in cultural value. As Jim Enoté, Director of the A:shiwi A:waan Museum recently noted, Bears Ears "...is a place many Native peoples in the Four Corners area continue to define as home, soul, and the cultivation of cultures."⁹ Second, given what we know about the popularity of other Native sites like Mesa Verde and Walnut Canyon, future people are likely to share this value. Therefore, the landscape of Bears Ears is culturally valuable.

Let's be clear about what we're not saying. We are *not*

10. <http://insideenergy.org/2017/09/01/oil-gas-eyes-bears-ears-fringes/> In particular, the Associate Director of Oil & Gas at the Utah Division of Natural Resources reports that ‘there are dozens of abandoned oil and gas wells within monument boundaries, but none are active, according to Utah’s Division of Oil, Gas & Mining. The last producing well in the monument was drilled in 1984 and stopped producing in 1992. The cost of getting oil and gas to market from such a remote and rugged area could be prohibitive, and experts say the fossil fuel deposits just aren’t economically recoverable.’

Disclosure statement

No potential conflict of interest was reported by the authors.

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