

Ensuring Public Involvement in the Creation (EPIC) of National Monuments Act

(H.R. 1459)

Status: Passed Committee on July 24, 2013 with a [vote of 26-14](#). Placed on the House Calendar.

- H.R. 1459, the *Ensuring Public Involvement in the Creation of National Monuments Act*, introduced by Rep. Rob Bishop (UT-01), would require public participation before a presidentially-declared National Monument is made official.
- Under a century-old law, the 1906 Antiquities Act, presidents can unilaterally designate National Monuments without any input or involvement of the American public, community leaders, or elected officials. This authority, enacted prior to the establishment of today's land management laws, was intended to be used in emergencies to protect historic artifacts and sites of scientific value from imminent threat and "confined to the smallest area" necessary.
- Since its establishment 108 years ago, the Antiquities Act has at times been misused for political purposes by presidents on both sides of the political spectrum. In most circumstances of abuse, large-scale designation are intended to limit specific uses, activities, and access to vast areas of America's public lands. This has hindered viable uses of land that benefit local communities and support industries and livelihoods, including education, energy production, farming, ranching, mining, and recreation.
- H.R. 1459 would guarantee the American people an opportunity to participate in the decisions that impact their communities and ensures that the designation process is transparent through the application of the National Environmental Policy Act (NEPA). Most, if not all, major public land-use decisions are statutorily required to go through the NEPA process. National Monument designations deserve public input from the people and communities who are directly impacted. To treat presidents differently and allow designations to be done in secret is anything but transparent.

Specifically, H.R. 1459:

- Classifies National Monument declarations under the Antiquities Act as a major federal action, which would require the application of NEPA;
- Allows for a temporary "emergency" designation (5,000 acres or less for a three-year period) by the president if there is an imminent threat to an American antiquity. After three years, the designation would only become permanent if the NEPA process is completed or it is approved by Congress;
- Limits National Monument declarations to no more than one per state during any four-year presidential term in office, unless otherwise approved by Congress;
- Prevents the inclusion of private property in monument declarations without the prior approval and written consent of property owners; and
- Requires within one year of a declaration, a feasibility study and an estimated cost to taxpayers associated with managing the monument in perpetuity, including any loss of federal and state revenue.

Question & Answer

Q: Why support H.R. 1459?

A: H.R. 1459 ensures that the American people have the opportunity participate in the decisions that impact their communities and that decisions are made in a transparent manner, through utilization of the National Environmental Protection Act (NEPA). Major public land-use decisions have been made behind closed-doors, without Congressional approval, and imposed on local communities. There is no legitimate reason for national monument designations to be done in secret without allowing proper input from the people and communities that are directly impacted. Modern presidents have been using the Antiquities Act as a political land-use tool rather than a preservation tool making decisions behind closed-doors and without public involvement for decades.

Q: What is the Antiquities Act of 1906?

A: The Antiquities Act of 1906 gives presidents unilateral authority to designate certain federal lands as national monuments without public input. Congress gave presidents this unilateral authority prior to the establishment of modern day environmental laws in order to protect historically and scientifically significant sites that are under imminent threat. The Antiquities Act is consistently used by presidents for politically motivated land-use decisions often without transparency and local support.

Q: By law, how is a site declared a national monument?

A: Under the authority of the Antiquities Act, presidents have the unilateral authority to create a monument by signing a piece of paper. According to the Antiquities Act and Congressional intent, a national monument can be established if the area meets the following criteria:

- Located on lands owned by the federal government
- Confined to the smallest geographical area possible
- An area of historical or scientific significance that faces an imminent threat

Q: What is the National Environmental Policy Act of 1969 (NEPA)?

A: NEPA is a federal law that requires federal agencies to evaluate the likely environmental effects of proposed projects on the environment. Public participation is at the core of the NEPA process. NEPA requires agencies to obtain input directly from the general public and those individuals who will be affected by proposed federal actions.

Q: Should presidents be exempted from NEPA regarding monument designations?

A: Most, if not all, major public land-use decisions are statutorily required to go through the NEPA process. National monument designations deserve public input from the people and communities who are directly impacted. To treat presidents differently and allow designations to be done in secret is anything but transparent.

Q: Have presidents ever abused the Antiquities Act?

A: There have been many abuses by presidents using the Antiquities Act. The Grand Staircase-Escalante National Monument in Utah designated by President Bill Clinton in September 1996 encompasses 1.9 million acres (slightly larger than the state of Delaware) and was not supported by state and local shareholders as well as the Governor and State congressional

delegation. The governor of Utah was given less than 24 hours notice and the announcement was made from the state of Arizona, where such designation helped President Clinton in a tough election year. Alaskans also opposed Carter's 1978 designation of 15 monuments totaling 43.8 million acres.

Q: With Congressional gridlock shouldn't presidents be allowed to make these designations?

A: This Congress and past Congresses have acted on many land designations and use a public, transparent process that values input from local and state governments, local residents, and national stakeholders. This Congress alone, the House Natural Resources Committee has considered over 12 bills that included land conservation. President Obama's most recent designation using the Antiquities Act (expansion of the California Coastal Monument) already passed the House in a bill by Democrat Jared Huffman. Congress can and does work to preserve our land and resources.

Q: Can the president still make emergency designations under H.R. 1459 to protect priceless antiquities from imminent threats?

A: Yes, H.R. 1459 allows for a temporary "emergency" designation (5,000 acres or less for a three-year period) by the president if there is an imminent threat to an American antiquity. After three years, the designation would become permanent if the NEPA process is completed or it is approved by Congress.

Q: Doesn't NEPA need reform? Why merge the Antiquities Act and NEPA?

A: H.R. 1459 is an immediate solution to an urgent problem. The Antiquities Act has been used as a political tool over the last three decades and abused by both Republican and Democratic presidents. Requiring a NEPA review as part of the Antiquities Act process will ensure public involvement and uphold the original intent of the Antiquities Act. While both the Antiquities Act and NEPA need to be updated and modernized we need to take action now to inject transparency & public participation into the process of national monument designations.