

Committee on Natural Resources

Rob Bishop, Chairman
Hearing Memorandum

May 27, 2016

To: All Committee on Natural Resources Members

From: Majority Committee Staff – Erica Rhoad, Terry Camp, and Aniela Butler
Subcommittee on Federal Lands (x6-7736)

Hearing: Oversight field hearing on *“Elevating Local Voices and Promoting Transparency for a Potential Monument Designation in Maine.”*

The Committee on Natural Resources will hold an oversight field hearing to hear testimony on *“Elevating Local Voices and Promoting Transparency for a Potential Monument Designation in Maine”* on **Wednesday, June 1, at 2:00 p.m. in the East Millinocket Town Office located at 53 Main Street, East Millinocket, Maine 04430**. The hearing will focus on the proposed Maine North Woods National Monument and its implications on Maine’s Katahdin region.

Policy Overview

- Like many monument designations before it, a new National Monument in Maine (referred to as the “Maine North Woods”) would disrupt several existing uses important to local citizens and communities including hunting, snowmobiling, forest management and road and trail access to recreation.
- Unlike most monument designations, the land in question is 87,500 acres of private, forested land that would have to be donated to the Secretary of the Interior and then designated as a National Monument by the President.
- The potential designation would represent an abuse of the Antiquities Act; no Congressional legislation designating the area exists; no imminent threat endangers the preservation of the site; and there is a great deal of local opposition.
- Despite recent public forums conducted by the National Park Service, many local residents still feel their questions and concerns are not being adequately addressed by the Obama Administration.

Invited Witnesses

Mr. Bob Meyers
Executive Director
Maine Snowmobile Association
Augusta, Maine

Mr. Paul Sannicandro
Councilman
Millinocket Town Council
Millinocket, Maine

Mr. Stephen Stanley
Representative, District 143
Maine House of Representatives
Medway, Maine

Mr. David Trahan
Executive Director
Sportsman's Alliance of Maine
Augusta, Maine

Mr. Lucas St. Clair
Elliotsville Plantation Inc.
Old Town, Maine

Mr. Matt Polstein
Owner
New England Outdoor Center
Millinocket, Maine

Background

National Monument Designations and the Antiquities Act

The Antiquities Act of 1906 authorizes the President to designate National Monuments on federal lands containing “historic landmarks, historic and prehistoric structures, or other objects of historic or scientific interest.”¹ Congress originally passed the Antiquities Act to allow the President to quickly protect Native American sites subject to looting and destruction.² President Theodore Roosevelt designated the first National Monument, Devils Tower, in 1906. Since that time, Presidents broadly interpreted the Antiquities Act to expand both the size and justifications for National Monument designations. As of May 2016, Presidents exercised their authority under the Antiquities Act 230 times to designate or expand 150 new land-based monuments totaling over 75 million acres.³ The National Park Service (NPS) and Bureau of Land Management primarily manage National Monuments, although the Fish and Wildlife Service, National Oceanic and Atmospheric Association and Forest Service also manage certain monuments either jointly or separately.

¹ 34 Stat. 225, 16 U.S.C. 431-433.

² Benderson, Judith. “The Archaeological Resources Protection Act and The Native American Graves Protection and Repatriation Act.” Offices of the United States Attorneys. <https://www.justice.gov/usao/priority-areas/indian-country/native-american-artifacts>

³ National Park Service. “Antiquities Act 1906-2006.” <https://www.nps.gov/archeology/sites/antiquities/MonumentsList.htm>

Since entering office, President Obama has already designated or expanded 23 National Monuments covering roughly 265 million acres of land and water, the largest number of both individual monuments established and total acreage designated by any President.⁴ Most recently, the President designated over 1.8 million acres in California as the Castle Mountains, Mojave Trails, and Sand to Snow Monuments.⁵ In addition to these monuments, many speculate President Obama intends to designate several more monuments, including the Maine North Woods Monument, before the end of his term. Each NPS-managed monument designation made by President Obama has had corresponding legislation in Congress either establishing the area as an NPS unit or authorizing a special resource study.⁶ No legislation has been introduced to designate the Maine Woods National Monument or Park in either the House of Representatives or the Senate.

Although presidential declarations create most monuments, Congress can also designate and establish National Monuments. Since 1927, Congress established 45 National Monuments including Appomattox in 1935, Badlands in 1929, and Biscayne in 1968. Congress and the President jointly created one national monument, the Mount St. Helens National Volcanic Monument, in 1982 after the famous volcanic eruption. Congress also turned 29 National Monuments into National Parks, starting with the re-designation of Cinder Cone and Lassen Volcanic National Monuments into Lassen Volcanic National Park in 1916.⁷

Since the passage of the Antiquities Act in 1906, Congress only enacted two statutory restrictions on the President's authority to designate National Monuments. The first, passed in 1950, limited the ability of President's to designate National Monuments in the State of Wyoming. The second restriction, passed in 1986, required Congressional approvals of land withdrawals in the State of Alaska larger than 5,000 acres.⁸ Both of these actions followed the extremely controversial declarations of Jackson Hole National Monument by President Franklin Roosevelt and President Carter's establishment of several monuments in Alaska.

Throughout the past several Congresses, Members of Congress introduced various legislation related to limiting the President's authority under the Antiquities Act. These bills include different provisions related to restricting the President's authority to designate monuments in certain states; requiring approval for monuments from state legislatures; and prohibiting monuments from affecting certain existing rights or activities.⁹ Representative Bruce Poliquin introduced H.R. 4132 on November 30, 2015 to require the approval of state legislatures before monument designations. Despite several controversial monument designations since 1986, neither Congress nor the Courts acted to restrict the President's authority.

⁴ Ibid.

⁵ Eilperin, Juliet. "Obama designates new national monuments in the California desert." 02/12/16. https://www.washingtonpost.com/politics/obama-to-designate-new-national-monuments-in-the-california-desert/2016/02/11/5b77db4e-c6be-11e5-a4aa-f25866ba0dc6_story.html.

⁶ Information provided by the Congressional Research Service.

⁷ Ibid. "Antiquities Act 1906-2006."

⁸ Hardy Vincent, Carol. "National Monuments and the Antiquities Act." Congressional Research Service. P. 1.

⁹ Ibid.

While many National Monuments are units of the NPS, their management plans and visitation numbers often differ greatly compared to National Parks. National Monuments are the only units of the National Park System that Presidents can designate, while only Congress can designate a National Park. National Parks are considered the “crown jewel” of the Park System, attracting over 75 million visitors in 2015. In the same year, National Monuments received on average 50 million fewer visitors than National Parks and only 4 Monuments registered over 1 million visitors, compared to 22 National Parks that met this mark.¹⁰ National Parks also generally follow more restrictive management plans. For example, Congress has not authorized sport hunting or forest management in *any* National Park although the activity is allowed in other units of the Park System such as National Monuments.¹¹

The Maine North Woods Proposal

Plans for a National Park in the Katahdin region date back more than 25 years. Proposals ranged from a National Park of 3.2 million acres to a National Park and Recreation Area of 150,000 acres. Recently, Roxanne Quimby and her son, Lucas St. Clair, announced their desire to donate approximately 87,500 acres of their land to create a Maine North Woods National Monument for the 100th anniversary of the National Park Service. Ms. Quimby, a member of the board of directors for the National Park Foundation, started the successful personal care products company, Burt’s Bees, in 1989. Shortly prior to the sale of Burt’s Bees in 2004, Elliotsville Plantation, Inc., a private operating foundation established by Ms. Quimby, started acquiring nearly 90,000 acres of land adjacent to Baxter State Park and Mount Katahdin with the goal of preserving forests and wildlife.

Along with the land donation, Ms. Quimby recently pledged \$40 million for an endowment to establish and maintain the monument.¹² The Quimby’s plan on donating \$20 million towards the endowment and raising the other half through private donations. While the endowment is helpful, it would likely fall far short of what would be needed to construct new roads, infrastructure, water & sewage systems and visitors centers, etc. typically associated with national parks. For example, the endowment would not even cover the deferred maintenance backlog at the neighboring Acadia National Park, which currently faces a \$68 million backlog.¹³

Several small towns surround the proposed site, including Millinocket, Maine, the main entry point into the Maine North Woods. Construction of Millinocket started in the unsettled North Maine Woods in late 1898 with Great Northern Paper, the largest paper mill in the world at the time. Millinocket earned the nickname “The Magic City” because it seemed to appear in the wilderness overnight. The neighboring town of East Millinocket’s slogan, “The Town That Paper Made,” also reflects the impact of the working forests in the area. Residents and visitors to the area enjoy a wide array of outdoor activities including hunting, fishing, snowmobiling and

¹⁰ NPS. “Annual Recreation Visitation by Park Type or Region: 2015.” <http://www.nature.nps.gov/assets/redirects/statsRedirect.cfm>

¹¹ Comay, Laura B. “National Park System: What Do the Different Park Titles Signify?” 11/19/15. Congressional Research Service. P. 8.

¹² Parrish, Christine. “Ntl. Park Service Director Visits Maine to Answer Questions About Proposed Maine Woods National Monument.” 05/19/16. <http://www.freepressonline.com/Content/Features/Features/Article/Ntl-Park-Service-Director-Visits-Maine-to-Answer-Questions-About-Proposed-Maine-Woods-National-Monument/52/78/45509>

¹³ NPS. “NPS Deferred Maintenance by State and Park.” 9/30/15. <https://www.nps.gov/subjects/plandesignconstruct/upload/FY-2015-DM-by-State-and-Park.pdf>

ATV trail riding. In recent years, area paper mills closed and mill lands, traditionally open to the public, were sold to new owners such as the Quimby's.

To investigate public opinion about a potential monument, NPS Director Jonathan Jarvis recently travelled to Maine and held two public forums on the issue. The first, in East Millinocket, drew a crowd of local residents of which the overwhelming majority expressed opposition to the proposal. During the meeting, Director Jarvis discussed the idea with locally-elected officials from the towns neighboring the proposed monument including East Millinocket, Medway, Millinocket, Mount Chase, Patten, Sherman, and Stacyville. Of the estimated 75 attendees, only two favored a monument designation.¹⁴ A second event in Orono, Maine, located roughly an hour from the proposed monument, drew a larger crowd of 1,400 who largely supported the monument. Environmental groups, including the Sierra Club's Portland chapter, organized an effort to bus in supporters of the monument to attend the forum. Although NPS has not taken an official stance on the creation of the Monument, Director Jarvis remarked during the forums that the land "is absolutely worthy" of a designation.¹⁵ Despite the two events, many local residents expressed fear that their concerns were not adequately addressed and many questions were left unanswered.¹⁶

Issues with the Designation

The proposal to create a new National Park in Maine has been met with strong local opposition. Last year, residents in the towns of East Millinocket, Medway, and Patten voted against the proposed 150,000-acre park in non-binding referendums. East Millinocket voted 320-191 against, Medway voted 252-102 against, and Patten voted 121-53 against.¹⁷

In addition to local referendum votes, Representative Stephen Stanley (D-Medway), introduced LD 1600, "An Act Regarding Consent to Land Transfers to the Federal Government."¹⁸ The bill, proposed by Maine Governor Paul LePage and sponsored by Representative Stanley, requires legislative approval for National Monument designations in Maine. The bill passed the Maine State legislature on April 11, 2016 and was signed into law by Governor LePage on April 12, 2016.

Governor LePage also wrote letters to President Obama and the Committee on Natural Resources expressing his strong opposition to both the establishment of a National Park or the designation of a National Monument. On November 20, 2015, three of the four members of the Maine Congressional delegation, including Senators Susan Collins and Angus King and

¹⁴ Sambides, Nick. "Maine people weigh in on proposed national monument at packed forums." 05/17/16. <https://bangordailynews.com/2016/05/16/news/state/maine-people-weigh-in-on-proposed-national-monument-at-packed-forums-in-orono-east-millinocket/>.

¹⁵ Ibid. "Proposed national park is a multimillion-dollar gift wrapped up in distrust."

¹⁶ Sharp, David. "National Monument: Park director didn't change minds of vocal opponents." 05/19/16.

http://www.reformer.com/ci_29915453/national-monument-park-director-didnt-change-minds-vocal

¹⁷ Sambides Jr., Nick. "East Millinocket voters reject national park by wide margin." 06/29/15.

<http://bangordailynews.com/2015/06/29/outdoors/east-millinocket-voters-reject-national-park-by-wide-margin/>

¹⁸ https://legislature.maine.gov/legis/bills/bills_127th/billtexts/HP109101.asp

Representative Poliquin, wrote President Obama to express “serious reservations and significant concerns” about the proposed monument.¹⁹

The Antiquities Act states that a President “reserve the smallest area compatible with the proper care and management” of the land.²⁰ Although not an explicit requirement of the Antiquities Act, Congress originally intended for the law to protect imminently threatened or endangered areas and artifacts. The property owners stated recently the land will remain open to the public and undeveloped even if the Obama administration does not declare the area as a National Monument.²¹ Given this existing protection and promise of no future development, the necessity of a Monument designation to protect this land is unclear.

Regardless of if the area is designated a National Monument or a National Park, making the area accessible to the public would be difficult and costly. The area has only basic forest roads (built to haul timber) and no other infrastructure that would be necessary to serve the public and provide basic services (such as restrooms, visitor’s center, etc.). The NPS has not conducted a formal feasibility study or special resource study to determine if the area is worthy of a national park designation or to determine the cost and other factors that should be considered before the area is designated.

The donation of the land to the Federal Government could result in numerous restrictions on the land by requiring compliance with numerous laws dictating the management of federal lands.²² For example, public access could be restricted for a number of reasons. Recreation, including motorized and snowmobiling access, could be significantly limited.²³ Safety also continues to be a concern as the current road infrastructure was built for logging trucks and could be dangerous if visitors were forced to share the same roads.

Finally, Maine is expecting a large spruce budworm outbreak that could kills thousands of acres of the spruce-fir forest.²⁴ In the bordering Canadian Province of Quebec, 15 million acres have been severely defoliated.²⁵ Professional foresters need the maximum amount flexibility and nimbleness to appropriately address this type of epidemic. This type of flexibility runs counter to federal land management in which projects to improve forest health may take multiple years to plan and analyze before implementation. Further, if the Maine North Woods were designated a national park or national monument, no commercial timber harvest would be allowed and the NPS is already prohibited from conducting commercial timber harvest on its

¹⁹ Collins, King, and Poliquin. Letter to President Obama. 11/20/15. <https://poliquin.house.gov/media-center/press-releases/collins-king-poliquin-send-letter-president-possible-national-monument>
<https://www.king.senate.gov/download/?id=474877DD-9E5C-48E6-BF2E-5A4768C86522&inline=file>

²⁰ Ibid. Antiquities Act of 1906.

²¹ Ibid. “Proposed national park is a multimillion-dollar gift wrapped up in distrust.”

²² Hoover, Katie. “Federal Lands and Natural Resources: Overview and Selected Issues for the 114th Congress” 4/14/16.

<http://www.crs.gov/Reports/R43429?source=search&guid=08a8071e7fe34ee1b43a82c137f952b4&index=6>

²³ Comay, Laura. “Motorized Recreation on National Park Service Lands” 2/19/2014.

<http://www.crs.gov/Reports/R42955?source=search&guid=feaed7324dbb499bbdb65f35942c33bf&index=1>

²⁴ Cooperative Forestry Research Unit, University of Maine et al. “Coming Spruce Budworm Outbreak: Initial Risk Assessment and Preparation & Response Recommendations for Maine’s Forestry Community” 3/16/16.

http://www.sprucebudwormmaine.org/docs/SBW_full_report_web.pdf

²⁵ Ibid.

lands.²⁶ This could seriously jeopardize neighboring forests and the existing forest products industry.

²⁶ Natural Resources Council of Maine. “National Park and National Recreation Area FAQs” 10/23/14. <http://www.nrcm.org/wp-content/uploads/2013/09/NPNRAFAQs102314.pdf>