

NICK J. RAHALL II, WV
CHAIRMAN
DALE E. KILDEE, MI
ENI F.H. FALCOMAVAEGA, AS
NEIL ABERCROMBIE, HI
FRANK PALLONE, JR., NJ
GRACE F. NAPOLITANO, CA
RUSH D. HOLT, NJ
RAUL M. GRIJALVA, AZ
MADELEINE Z. BORDALLO, GU
JIM COSTA, CA
DAN BOREN, OK
GREGORIO SABLAN, MP
MARTIN HEINRICH, NM
GEORGE MILLER, CA
EDWARD J. MARKEY, MA
PETER A. DeFAZIO, OR
MAURICE D. HINCHEY, NY
DONNA M. CHRISTENSEN, VI
DIANA DeGETTE, CO
RON KIND, WI
LOIS CAPPS, CA
JAY INSLEE, WA
JOE BACA, CA
STEPHANIE HERSETH SANDLIN, SD
JOHN P. SARBANES, MD
CAROL SHEA-PORTER, NH
NIKI TSONGAS, MA
FRANK KRATOVLJ, JR., MD
PEDRO R. PIERLUISI, PR

JAMES H. ZOIA
CHIEF OF STAFF

U.S. House of Representatives
Committee on Natural Resources
Washington, DC 20515

DOC HASTINGS, WA
RANKING REPUBLICAN MEMBER
DON YOUNG, AK
ELTON GALLEGLY, CA
JOHN J. DUNCAN, JR., TN
JEFF FLAKE, AZ
HENRY E. BROWN, JR., SC
CATHY McMORRIS RODGERS, WA
LOUIE GOHMERT, TX
ROB BISHOP, UT
BILL SHUSTER, PA
DOUG LAMBORN, CO
ADRIAN SMITH, NE
ROBERT J. WITTMAN, VA
PAUL C. BROUN, GA
JOHN FLEMING, LA
MIKE COFFMAN, CO
JASON CHAFFETZ, UT
CYNTHIA M. LUMMIS, WY
TOM McCLINTOCK, CA
BILL CASSIDY, LA

TODD YOUNG
REPUBLICAN CHIEF OF STAFF

February 18, 2010

President Barack Obama
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear Mr. President,

We have received an internal document indicating that political functionaries in the Department of the Interior are working in secret (or perhaps in collaboration with special interest groups) to develop a plan to use Presidential fiat to lock-up vast expanses of land in Western States.

Included in the plan are prospective National Monument Designations under the Antiquities Act for the San Rafael Swell in Utah, Heart of the Great Basin in Nevada, Montana's Northern Prairie, and several other sites. The document also contains a list of hundreds of thousands of acres of private lands to be targeted for acquisition by the federal government, many of which are in the boundaries of previously-designated National Monuments.

Like many Americans, we took hopeful notice of your campaign pledge to end the "business as usual" practices in Washington, D.C. that are so resented by the American public. But this plan, if carried out, will be one of the worst examples of secret insider dealings. Transparency and public openness will have been cast aside for a process that deliberately prevents local citizens most affected by a designation from having an opportunity to be heard before lands where they live and work to support their families are closed to productive use.

There is no legitimate reason that land use decisions cannot be made in an open manner that allows for public participation. It is time to end the imperial view of the Antiquities Act under which the Executive Branch claims unlimited and unilateral power to make designations without regard to the size of the area, the beneficial resources denied to our country, or the effect on families who are robbed of the opportunity for good-paying local jobs. We ask that you assure the many families and communities whose livelihoods are threatened by plans revealed in this document, or similar arbitrary federal action, that they and their elected officials will have ample opportunity to be heard before any restrictive designations are acted upon.

Our opposition to the abuse of the Antiquities Act is not partisan. The Antiquities Act has long been abused by Presidents of both parties. We, therefore, call on you to rein in those who would abuse the Act and, instead, follow these four criteria before making any designations:

1. Any designations must be very constrained in size and solely limited to contiguous lands already owned by the federal government. During debate over the creation of the Antiquities Act, the Congressional Record shows the acreage would be limited to a few hundred acres. Limiting the acreage designated also reduces the conflict with the Federal Land Policy Management Act of 1976 and the National Environmental Policy Act by leaving in place management decisions that were established through a public-input process.
2. Any designations should be limited to sites that clearly contain "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest." Designations are not to be used as a backdoor maneuver to lock-up lands for general purposes that deny public access for recreation and job-creation. Congress never intended to give carte blanche authority for land use designations to the Executive Branch.
3. Private property should be excluded from any Monument designations, avoiding the designation of inholdings. Designations that curtail wholesome outdoor recreational opportunities or arbitrarily block access to resources needed for our economic well-being and independence from foreign sources should be avoided.
4. Designations should be limited to areas that face clearly-articulated, imminent threats. The simplistic, generalized notion that any potential commercial use is a threat is neither correct nor adequate justification for preemptory action.

As a former legislator and teacher of Constitutional law, we hope you will agree that unilateral executive actions that evade the normal checks and balances of legislative action should be rare, carefully constrained, and limited to genuine emergencies. We call on you to commit your Administration to abide by the four reasonable principles outlined above, or to submit such proposed far-reaching land-use restrictions to Congress as a legislative proposal.

Sincerely,



Doc Hastings
Ranking Member
Committee on Natural Resources



Rob Bishop
Ranking Member
Subcommittee on National Parks,
Forests and Public Lands

Cc: Secretary of the Interior