Legislative Hearing on:

**H.R. 250** (Chaffetz), To amend the Antiquities Act of 1906 to place additional requirements on the establishment of national monuments under that Act, and for other purposes.

**H.R. 382** (Foxx), To provide for State approval of national monuments, and for other purposes. “Preserve land Freedom for Americans Act”

**H.R. 432** (Amodei), To prohibit the further extension or establishment of national monuments in Nevada except by express authorization of Congress.

**H.R. 758** (Stewart), To prohibit the further extension or establishment of national monuments in Utah except by express authorization of Congress. “Utah Land Sovereignty Act”

**H.R. ___** (Pearce), To prohibit the further extension or establishment of national monuments in New Mexico except by express authorization of Congress. “New Mexico Land Sovereignty Act”

**H.R. ___** (Daines), To prohibit the further extension or establishment of national monuments in Montana, except by express authorization of Congress, and for other purposes. “Montana Land Sovereignty Act”

**H.R. ___** (Labrador), To prohibit the further extension or establishment of national monuments in Idaho, except by express authorization of Congress. “Idaho Land Sovereignty Act”

**H.R. ___** (Bishop), To ensure that the National Environmental Policy Act of 1969 applies to the declaration of national monuments, and for other purposes. “Ensuring Public Involvement in the Creation of National Monuments Act”

Testimony submitted on behalf of the National Association of Counties

Chairman Bishop, Ranking Member Grijalva and members of the Committee, we appreciate the subcommittee scheduling this timely hearing to examine legislative modifications to the Antiquities Act. Thank you for giving the National Association of Counties (NACo) the opportunity to submit testimony on behalf of the nation’s counties. On behalf of NACo and the members of its Western Interstate Region (WIR), we applaud your efforts to provide transparency and accountability in the designation of national monuments.

NACo supports congressional revisions of the Antiquities Act of 1906 (16 U.S.C. 431) to require that any Presidential national monument proclamation be subject to NEPA review and congressional approval.

Historically, the Antiquities Act was enacted as a response to concerns over theft from and destruction of archaeological sites and was designed to provide an expeditious means to
protect federal lands and resources. It authorizes the President to proclaim national monuments on federal lands that contain “historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest.” The Act requires the President to reserve “the smallest area compatible with the proper care and management of the objects to be protected.”

President Theodore Roosevelt first used the authority in 1906 to establish the Devil’s Tower in Wyoming. Presidents have created more than 120 monuments, totaling more than 70 million acres. President Franklin Delano Roosevelt used the Act 28 times and President Carter bestowed monument status on 56 million acres in Alaska. President Clinton used the Act 22 times to create 19 new monuments and enlarge three others to designate 5.9 million acres; most were done during his last year in office. He cited frustration with the slow pace of legislated land protection as a justification.

The lack of local or congressional input and approval of a president’s monument designation often generates significant controversy at the local level. Yet, under the terms of the Act, the president is not required to consult with local and state authorities. Under current law, the president is not obligated to seek congressional advice and consent prior to declaring lands national monuments.

The potentially detrimental effects of a monument designation frequently cause local residents, county elected officials, and state legislators, who have major interests in the lands, to push Congress for reform. Counties should be fully involved as affected partners in any process to designate federal land use designations which restrict public use and access. Congress and Federal agencies should coordinate with affected counties when considering special land use designations that impact the use and status of public lands. NACo strongly opposes Federal land management agency actions that limit access and multiple use of lands that otherwise would be available to the public (i.e. Wilderness Study Areas, “Wild Lands,” or any other de facto wilderness designation).

According to a leaked memo from the U.S. Department of the Interior, the Obama Administration is considering using the Antiquities Act to designate or expand additional monuments in Arizona, California, Colorado, Montana, New Mexico, Oregon, Utah and Washington. Under current law, the President could use the Antiquities Act to designate millions of acres of land without first notifying Congress or the affected Governors, tribes or communities involved. Moreover, there is no requirement to determine what the impact of the designation would be on local communities.

Congressional oversight and full NEPA analysis and public review are necessary to curb last minute Presidential designations of large tracts of lands for National Monument status, some of
which some are high value areas and important to the American people for resources above and beyond that of just recreation.

An important policy reason for passage of the National Environmental Policy Act (NEPA) was to have large tracts of public lands scrutinized by public and local government input before significant federal action is taken on those lands. That policy should apply to large land tracts being proposed presidentially for National Monument designation. Recent use of the Antiquities Act for large tract designation has not provided reasonable notice to state and local governments, and has gone well beyond Congress’ original intent to designate the smallest portion of land needed to represent certain objects of historic and scientific interest.

Federal consultation with state, county and tribal governments should be required prior to the development and designation of any national monument. Critical multiple use activities will be preserved if Presidential National Monument declarations are subjected to a transparent public review and approval process. Such collaboration will preserve the economic base, prosperity and livelihood of many western counties and their economies.

In conclusion, the designation of federal land as defacto wilderness, national monument, or similar designation without input from local governments can lead to devastating reductions in economic activity and the loss of jobs in resource dependent communities. NACo appreciates the House Natural Resources Committee’s attention to this important issue and looks forward to assisting the Unites States Congress to develop and enact much needed reform to the Antiquities Act.

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