SOCIETY OF ARCHITECTURAL HISTORIANS

19 July 2017

The Honorable Ryan Zinke, Secretary of the Interior
Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Re: Review of the Antiquities Act of 1906

Dear Mr. Secretary,

The Society of Architectural Historians (SAH) expresses strong support for the continued reasonable use of the Antiquities Act of 1906. For over a century, the Antiquities Act has done much to preserve and protect historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest across the United States.

SAH is the principal scholarly organization for architectural historians in North America. It does not regularly become involved in local preservation issues, and speaks only to issues of national and international importance. We evaluate threats to nationally and internationally significant architectural resources thoroughly, and do not take positions on them lightly.

The Antiquities Act of 1906 authorizes the President to "at his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments …." (54 U.S.C. §§320301-320303). On April 26, 2017, President Donald Trump signed an executive order, "Review of Designations Under the Antiquities Act," directing a review of the law and its uses

Since President Theodore Roosevelt first used the Antiquities Act in 1906 to designate Devil's Tower in Wyoming as the country's first national monument, sixteen of the twenty-one American presidents have used the Antiquities Act to create 151 monuments, including the Grand Canyon, Grand Teton, and Olympic National Parks, the Statue of Liberty, and the Chesapeake and Ohio Canal. The only presidents who have not used the Antiquities Act are Richard M. Nixon, Gerald R. Ford (partial term) Ronald Reagan, George H.W. Bush, and Donald J. Trump.

The Antiquities Act requires the president to reserve "the smallest area compatible with the proper care and management of the objects to be protected" (54 U.S.C. §320301(b)). The monuments themselves vary greatly in size, from less than one acre (the Stonewall National Monument in New York City, designated by President Barack Obama) to about 283 million acres (the Papahanaumokuakea Marine National Monument in Hawaii, designated by President George W. Bush and expanded by President Barack Obama. Roughly half of the designations involve fewer than 5,000 acres. Since the early 1990s, Congress has consistently rejected proposals to restrict the President's authority to determine the size of monuments created under the Antiquities Act, determining that the required acreage depends upon the amount of land necessary to preserve the integrity of the object or objects determined to be worthy of federal protection. Courts, too, have deferred to the President's judgement regarding the size of the monument. For example, a lawsuit challenging the Giant Sequoia National Monument in California challenged the size of the monument, 327,769 acres, as not

"the smallest area compatible with proper care and management," as required by the Antiquities Act. The court found no basis for that argument (Tulare County v. Bush, 306 F.3d 1138, 1142 (D.C. Cir. 2002)). The U.S. Supreme Court has also upheld the President's authority to create monuments under the Antiquities Act. One of the first national monuments proclaimed, the Grand Canyon National Monument, was challenged in a case that ultimately reached the U.S. Supreme Court. In that case, the Supreme Court upheld the President's authority (Cameron v. United States, 252 U.S. 450 (1920). Since then, courts have given deference to this presidential authority. While many legal challenges have been mounted, to date no legal challenge has resulted in the revocation of a presidential designation under the Antiquities Act. There are no court cases determining the issue of presidential authority to abolish a national monument.

We recognize that some designations have been controversial. In 1908, President Theodore Roosevelt's designation of the Grand Canyon National Monument was subject to a legal challenge, and the designation was upheld. Since its establishment, the Grand Canyon National Monument has become internationally acclaimed and revered as an American landmark. With the benefit of time and the perspective that it can bring, President Roosevelt has been celebrated for his foresight in preserving for future generations a place of unparalleled natural and cultural interest, while the memory of the legal challenge has faded into near oblivion as a misguided impulse driven by special interests.

The Society of Architectural Historians (SAH) expresses strong support for the continued reasonable use of the Antiquities Act of 1906. The Antiquities Act has done much to preserve and protect historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest across the United States. We urge you, Mr. Secretary, to look for ways to continue the reasonable use of the Antiquities Act so that future generations of Americans will be able to experience these special places that both define and enrich our lives as Americans.

Sincerely,

Bryan Clark Green, Ph.D., LEED AP BD+C
Chair, Society of Architectural Historians Heritage Conservation Committee

cc: Ms. Pauline Saliga; Ms. Deborah Slaton; Mr. Kenneth Breisch, Ph.D.; Mr. David Fixler, FAIA; Mr.Jeffrey Cody, Ph.D.; Mr. Ken Oshima, Ph.D., Mr. Anthony Cohn, Members, SAH Heritage Conservation Committee