

# **Antiquities Act Musings**

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Beneficiary Presentation  
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# About This Presentation

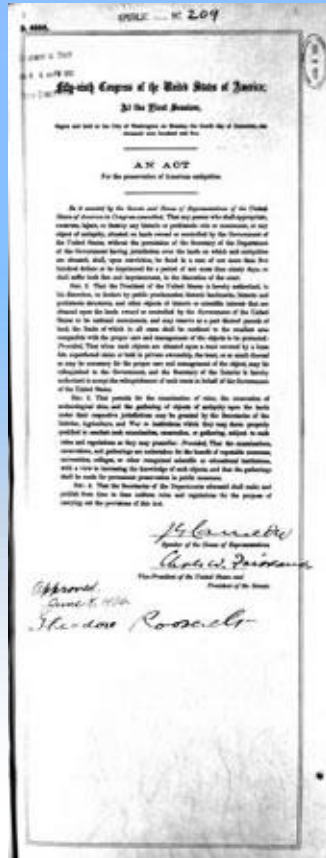
- Thoughts About Antiquities Act
- Thoughts about Bishop Land Exchange
- Thoughts on Moving Forward



# Antiquities Act

- Passed in 1906
- Broad and simple language:

That the **President** of the United States is **hereby authorized**, in 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, **and may reserve as a part thereof parcels of land**, the limits of which in all cases shall be **confined to the smallest area compatible with proper care and management of the objects to be protected**.



# Antiquities Act

- Signed into Law by Teddy Roosevelt
- Made 16 designations



# Antiquities Act

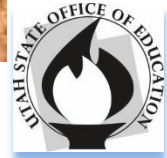
- Areas protected by the Antiquities Act include (total of 145):



# Devil's Tower



# Mukuntu-weap



# Chesapeake & Ohio Canal





# WWII Valor in the Pacific

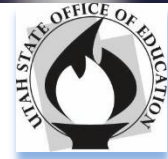


# Grand Staircase



# Presidential Authority

- Three words:
  - Virtually
  - unlimited
  - discretion



# Bishop Process

- Worst Kept Secret:
  - Many of those participating in the process don't want it to succeed
- Second Worst Kept Secret:
  - the PLI is in trouble



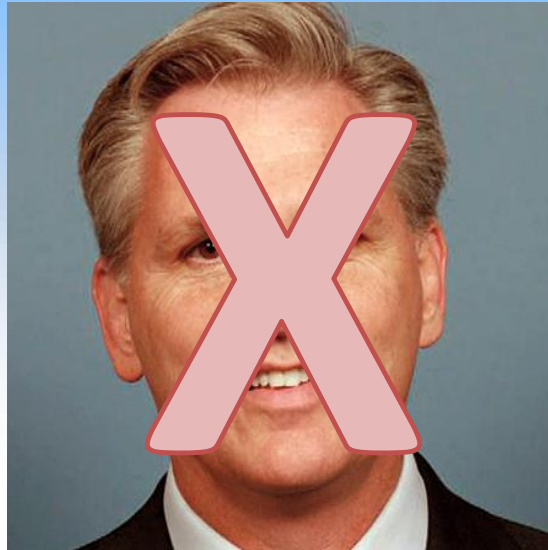
# Bishop Process

- PLI Risks
  - As time wears on, losing leverage
  - Tribal issues
  - BLM shut out
    - “We have not seen anything tangible,” [Interior Secretary Sally Jewell] said. “We have asked for detail, because we have seen no detail.”
    - “We need to be brought to the table.”
    - “We are going to continue to get requests from people who are worried about these lands.”



# Bishop Process

- PLI Risks
  - Congress



# My Gut Feeling

- There's going to be a monument



# Legally, What Can the Trust Do?

- Any challenge to the discretion of the President will fail.





# Legally, What Can the Trust Do?

- Right of Access
  - Unless a right of access is inferred, the very purpose of the school trust lands would fail. Without access the state could not develop the trust lands in any fashion and they would become economically worthless. This Congress did not intend.
  - *Utah v. Andrus*, 486 F. Supp. 995, 1002 (D. Utah 1979) (the “Cotter” case)



# Right of Access

- Central to Political Strategy
- Demand Access
- File Lawsuits
- Bring the Federal Government to the Negotiating Table



# The End

- Questions
- Comments



P.S.

- Thank you