



THE STATE OF ARIZONA  
**GAME AND FISH DEPARTMENT**

5000 W. CAREFREE HIGHWAY  
PHOENIX, AZ 85086-5000  
(602) 942-3000 • WWW.AZGFD.GOV

**GOVERNOR**

DOUGLAS A. DUCEY

**COMMISSIONERS**

CHAIRMAN, EDWARD "PAT" MADDEN, FLAGSTAFF

JAMES R. AMMONS, YUMA

JAMES S. ZIELER, ST. JOHNS

ERIC S. SPARKS, TUCSON

KURT R. DAVIS, PHOENIX

**DIRECTOR**

LARRY D. VOYLES

**DEPUTY DIRECTOR**

TY E. GRAY



As Chairman of the Commission, I thank the Senate Energy and Natural Resources Committee for the opportunity to submit this testimony for the record.

The Arizona Game and Fish Commission (Commission) supports multiple use of public lands that provides Arizona's residents and the resource with net benefits, and continues to oppose federal special land-use designations that impact the ability of the Arizona Game and Fish Department (Department) to fulfill its public-trust responsibility and mission to conserve Arizona's diverse wildlife resources and to manage for safe, compatible outdoor recreation opportunities for current and future generations. Such a threat to this responsibility often looms in the waning days of a presidential administration in the form of the Antiquities Act.

Intended to curtail the looting and destruction of objects of historical or scientific interest, the 1906 act granted the President of the United States unchecked authority to reserve a national monument of "the smallest area compatible with the proper care and management of the objects to be protected." The Act was well-intentioned and effective in its purpose, but remains outside the framework of checks and balances that ensures responsible governance.

The power of the President to designate federal lands as a National Monument without the consent of Congress, local governments, or affected citizens is not consistent with the principles of a government by and for the people.

Arizona currently has 18 monument designations, the most of any state. These existing designations have negatively impacted the Department's ability to develop and maintain critical water sources, manage wildlife, restore habitat, and perform wildlife translocations. For example, in 1999 Department biologists counted at least 103 bighorn sheep making their home in the Maricopa Mountains of what later became the Sonoran Desert National Monument. The Department experienced detrimental delays, outright prohibitions of necessary wildlife management actions and a crippling lack of access to the area after the 2001 designation necessitated a management plan to authorize the means and methods previously used to successfully nurture this wildlife resource. After the 11 year process of developing the plan was completed and another population survey could finally be conducted in 2015, 35 bighorn sheep remained.

Time and again the Commission has seen the multiple use doctrine curtailed and the ability of Arizonans to recreate on their lands fundamentally impacted by special land use designations. Even designations that seek to preserve existing uses require management plans that must be drafted at the federal agency level, navigating layers of bureaucracy that result in project delays, increased costs, increased man hours and legal challenges. Road closures and use restrictions by federal agencies managing these lands are common. Especially relevant are those lands managed

by the National Park System, where access roads deteriorate and are subsequently closed as a consequence of the System's \$11.9 billion backlog of deferred maintenance, \$329 million of which is attributed to the existing 1.2 million acres of the Grand Canyon National Park alone.

However, the Antiquities Act does not include a process for public input, so there is no place for the Commission, or any other citizens, to formally bring such concerns or past experiences.

The Antiquities Act has bestowed unilateral power upon the President of the United States to designate federal lands as a National Monument without the consent of Congress, local governments or affected citizens. The federal reserved water rights doctrine, established in 1908 and expanded through decades of court battles ensures that when the federal government reserves public land for uses such as a monument, it also implicitly reserves sufficient water to satisfy the purposes for which the land-use designation was created.

In 1952 Arizona began an 11 year Supreme Court battle to settle questions of allotments before it could begin to build the Central Arizona Project. The use of Colorado River water requires successful navigation of a century of laws, treaties, court decisions, decrees, contracts and guidelines that form the "Law of the River" and determine appropriate use of water in the Colorado River Basin. It also requires a contract with the Secretary of the Interior.

In Arizona, an application to appropriate public water that is under the jurisdiction of the state costs a minimum of \$1,000. The administrative review of this application takes 20 days and, if found to be complete, the substantive review of the request can range from 100 to 420 days depending on use. This lengthy review is conducted to verify that the use of water does not conflict with vested rights, is not a menace to public safety, and does not run counter to the interests and welfare of the public.

In Washington D.C. the right to use water anywhere in the country can be reserved in exactly as much time as it takes for the President to sign his name.

Designations made either by presidential executive fiat or those made by an act of Congress have implied reserved rights, but only one of those requires a public process. Only Congress is required to publically consider the interest and welfare of the people of Arizona. The lack of oversight inherent to the Antiquities Act could be devastating to Arizona's water future both statewide and in nearby local communities.

The Game and Fish Commission supports the limitation of reserve water rights in a national monument. By requiring that water rights for a monument created by Presidential decree be secured through the laws of the state, S.1416 ensures that Arizona's water future remains in the hands of its own citizens.

- Edward "Pat" Madden  
Chairman, Game and Fish Commission