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## **Evolving Presidential Policy Toward Livestock Grazing in National Monuments**

by

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## Article

# Evolving Presidential Policy Toward Livestock Grazing in National Monuments

Andy Kerr and Mark Salvo\*

Since Congress enacted the Antiquities Act of 1906 [Act],<sup>1</sup> every President from Teddy Roosevelt to Bill Clinton, save the last three Republicans (Ford, Reagan, and Bush), has used his authority delegated by Congress to establish national monuments. Under the Act, the President enjoys the rare power to proclaim protective boundaries around federally owned structures or landscapes of “historic or scientific interest.”<sup>2</sup> When the President creates a new monument, he or she has the authority to grant, permit, prohibit, reduce, or eliminate (in accordance with applicable laws) resource use and other activities in the monument.<sup>3</sup> The following is a brief review of Presidential treatment of

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1. 16 U.S.C. § 431 (2001).

2. *Id.*

3. See Pamela Baldwin and Carol Hardy Vincent, *National Monuments and the Antiquities Act*, Congressional Research Service Report RL30528 (April 17, 2000),

livestock grazing in national monuments, an historic but increasingly controversial use of many public lands designated as monuments. We track grazing management from the first monuments created under the Act—when both Presidents and the public were unaware or unconcerned about the environmental impacts of domestic livestock—to President Clinton’s treatment of grazing in the twenty-two monuments he designated.

### I. Grazing in National Monuments—Pre-Clinton

Historically, livestock grazing was not an issue on lands designated as national monuments. In those cases where grazing did occur, the proclamation was usually silent on the matter.<sup>4</sup> The first score of national monuments were proclaimed out of national forest lands. The following language (or similar) was often used to prioritize, just slightly, the purposes of the monument over those of the underlying national forest.

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<http://www.cnie.org/nle/crsreports/public/pub-15.cfm>.

4. For a review of the most pervasive use of the public domain and convincing arguments to end federal public lands grazing, see DEBRA L. DONAHUE, *THE WESTERN RANGE REVISITED: REMOVING LIVESTOCK FROM PUBLIC LANDS TO CONSERVE NATIVE BIODIVERSITY* (1999) (discussing impacts of livestock grazing on Western arid landscapes); LYNN JACOBS, *WASTE OF THE WEST: PUBLIC LANDS RANCHING* (1991) (discussing federal grazing program); Joy A. Belsky, *The Effects of Grazing: Confounding Ecosystem, Community, and Organism Scales*, 127 *AMER. NATURE* 870-892 (1987) (discussing ecosystems); Joy A. Belsky & Dana M. Blumenthal, *Effects of Livestock Grazing on Stand Dynamics and Soils in Upland Forests of the Interior West*, 11 *CONSERV. BIOL.* 315-327 (1997) (discussing upland forests, soil); Joy A. Belsky et al., *Survey of Livestock Influences on Stream and Riparian Ecosystems in the Western United States*, 54(1) *J. SOIL AND WATER CONSERV.* 419-431 (1999) (discussing streams, riparian areas); Tom L. Fleischner, *Ecological Costs of Livestock Grazing in Western North America*, 8 *CONSERV. BIOL.* 629-644 (1994) (discussing ecosystems, riparian areas); David S. Wilcove et al., *Quantifying Threats to Imperiled Species in the United States*, 48(8) *BIOSCIENCE* 607-615 (1998) (discussing endangered species); John L. Gelbard & Joy A. Belsky, *Contributions of Livestock Grazing to Exotic Plant Invasions in Rangelands of the Intermountain West*, *CONSERV. BIOL.* (1999) (in press) (discussing invasive species); John Horning, *Grazing to Extinction: Endangered, Threatened and Candidate Species Imperiled by Livestock Grazing on Western Public Lands*, National Wildlife Federation, Washington, D.C. (1994) (discussing sensitive species); THOMAS MICHAEL POWER, *LOST LANDSCAPES AND FAILED ECONOMICS: THE SEARCH FOR A VALUE OF PLACE* (1998) (discussing economics).

The reservation made by this proclamation is not intended to prevent the use of the lands for forest purposes under the proclamation establishing the Pinnacles National Forest, but the two reservations shall both be effective on the land withdrawn, but the National Monument hereby established shall be the dominant reservation.<sup>5</sup>

Where grazing was permitted on the prior reservation (national forest), it was apparently left to the managers to determine if livestock grazing was compatible with the purposes of the new monument. Over time, most national forest monuments were transferred to the National Park Service [NPS]. In these cases, the generic NPS grazing regulation applies, which generally disfavors grazing.<sup>6</sup>

Sometimes Presidents expressly provided for stock driveways through national monuments, such as in Capitol Reef National Monument established by Franklin D. Roosevelt in 1937. President Roosevelt's proclamation states, "Nothing herein shall prevent the movement of livestock across the lands included in this monument under such regulations as may be prescribed by the Secretary of the Interior and upon driveways to be specially designated by said Secretary."<sup>7</sup> In keeping with the spirit of the proclamation, Dwight Eisenhower and Lyndon Johnson preserved the livestock driveway in subsequent expansions of Capitol Reef.<sup>8</sup>

While the President has broad discretion in determining what areas should be designated as national monuments, there was (and continues to be) disagreement whether some ecosystem-types are deserving of protection, including landscapes historically used for grazing. In 1945, a federal district court in *Wyoming v. Franke* ruled that Franklin D. Roosevelt's designation of Jackson Hole National Monument was proper in spite of arguments by the state of Wyoming that the area lacked sufficient scientific and historic value to be a national monument.<sup>9</sup> However, the court, perhaps frustrated by its limited power of judicial review under the Antiquities Act, suggested the President should not use the Act to preserve less dramatic landscapes such as sagebrush steppe (more poetically known as the Sagebrush Sea) where extensive grazing also occurred. The court stated, "For example, if a monument were to

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5. Pinnacles National Monument, California, Proclamation No. 796, 35 Stat. 2177, 2177-2178 (Jan. 16, 1908).

6. 36 C.F.R. § 2.60(a) (Jan. 24, 2002).

7. Capitol Reef National Monument, Utah, Proclamation No. 2246, 50 Stat. 1856, 1857 (Aug. 2, 1937).

8. Enlarging the Capitol Reef National Monument, Utah, Proclamation No. 3249, 72 Stat. c48 (July 2, 1958); Enlarging the Capitol Reef National Monument, Utah, Proclamation No. 3888, 83 Stat. 922, 924 (Jan. 20, 1969).

9. See *Wyoming v. Franke*, 58 F. Supp. 890 (D. Wyo. 1945).

be created on a bare stretch of sage-brush prairie in regard to which there was no substantial evidence that it contained objects of historic or scientific interest, the action in attempting to establish it by proclamation as a monument, would undoubtedly be arbitrary and capricious and clearly outside the scope and purpose of the Monument Act [Antiquities Act].”<sup>10</sup>

Dwight Eisenhower must have concurred with the court’s opinion in *Franke*. His 1960 proclamation modifying Arches National Monument excluded from the monument “certain lands . . . which are used for grazing and which have no known scenic or scientific value.”<sup>11</sup> However, John F. Kennedy later disagreed with the judge’s view about the lack of scientific value of sagebrush habitat when he stated in his 1962 proclamation enlarging Craters of the Moon National Monument:

WHEREAS it appears that it would be in the public interest to add to the Craters of the Moon National Monument a 180-acre kipuka, a term of Hawaiian origin for an island of vegetation completely surrounded by lava, that is scientifically valuable for ecological studies because it contains a mature, native sagebrush-grassland association which has been undisturbed by man or domestic livestock.<sup>12</sup>

## II. Grazing in Clintonian Monuments

President Clinton proclaimed or expanded twenty-two national monuments totaling more than 1,202,720 acres.<sup>13</sup>

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10. *Franke*, 58 F. Supp. at 895. The court interchangeably refers to the Antiquities Act as the “Monument Act” and “National Monument Act” in this case.

11. Modifying the Arches National Monument, Utah, Proclamation No. 3360, 74 Stat. c79, c80 (July 22, 1960).

12. Addition to the Craters of the National Moon Monument, Idaho, Proclamation 3506, 77 Stat. 960, 961 (Nov. 19, 1962).

13. See *infra* Table I.

Table I<sup>(A)</sup>

NATIONAL MONUMENT	STATE	ACRES	PROCLAMATION DATE	Agency
Grand Staircase-Escalante	CO	1,700,000	September 18, 1996	BLM <sup>14</sup>
Agua Fria	AZ	71,100	January 11, 2000	BLM
California Coastal	CA	(B)	January 11, 2000	BLM
Grand Canyon-Parashant	AZ	1,014,000	January 11, 2000	BLM
Pinnacles [Expansion]	CA	7,900	January 11, 2000	NPS <sup>15</sup>
Giant Sequoia	CA	327,969	April 15, 2000	USFS <sup>16</sup>
Canyons of the Ancients	CO	164,000	June 9, 2000	BLM
Cascade-Siskiyou	OR	52,000	June 9, 2000	BLM
Hanford Reach	WA	195,000	June 9, 2000	FWS <sup>17</sup>
Ironwood Forest	AZ	128,917	June 9, 2000	BLM
President Lincoln and Soldiers' Home	DC	2.3	July 7, 2000	NPS
Craters of the Moon [Expansion]	ID	661,287	November 9, 2000	NPS/BLM
Vermillion Cliffs	AZ	293,000	November 9, 2000	BLM
Buck Island Reef [Expansion]	V. Isl.	18,135 <sup>(C)</sup>	January 17, 2001	NPS
Carrizo Plain	CA	204,107	January 17, 2001	BLM
Kasha-Katuwe Tent Rocks	NM	4,148	January 17, 2001	BLM
Minidoka Internment	ID	72.75	January 17, 2001	NPS
Pompeys Pillar	MT	51	January 17, 2001	BLM
Sonoran Desert	AZ	486,149	January 17, 2001	BLM
Upper Missouri River Breaks	MT	377,346	January 17, 2001	BLM
Virgin Islands Coral Reef	V. Isl.	12,708 <sup>(C)</sup>	January 17, 2001	NPS
Governors Island	NY	20	January 19, 2001	NPS

<sup>(A)</sup> Table I includes only executively proclaimed national monuments. One monument, the 272,000-acre Santa Rosa-San Jacinto National Monument in California, was congressionally designated during the Clinton administration. (Santa Rosa and San Jacinto Mountains National Monument Act of 2000, Pub. L. No. 106-351).

<sup>(B)</sup> Uncalculated as this monument includes countless islands, rocks, exposed reefs, and pinnacles above mean high tide within 12 nautical miles of the shoreline of the State of California (approximately 840 miles long).

<sup>(C)</sup> These "marine acres" include islands, coral reefs, mangroves, shoals, rocks, pinnacles and other oceanic habitats.<sup>18</sup>

14. Bureau of Land Management (BLM).

15. National Park Service (NPS).

16. U.S. Forest Service (USFS).

17. U.S. Fish and Wildlife Services (FWS).

18. The authors created Table I by extracting information from the following documents: Pinnacles National Monument, California, Proclamation No. 796, 35 Stat. 2177 (Jan. 16, 1908); Establishment of the Minidoka Internment National Monument, Proclamation No. 7395, 66 Fed. Reg. 7347 (Jan. 17, 2001); Establishment of the Grand Staircase-Escalante National Monument, Proclamation No. 6920, 110 Stat. 4561 (Sept. 18, 1996); Establishment of the Agua Fria National Monument, Proclamation No. 7263, 65 Fed. Reg. 2817 (Jan. 11, 2000); Establishment of the Canyons of the Ancients National Monument, Proclamation No. 7317, 65 Fed. Reg. 37241 (June 9, 2000);

For seven Clintonian monuments, livestock grazing was not a management issue. Anderson Cottage (preserved in President Lincoln and Soldiers' Home National Monument) is where Abraham Lincoln escaped the August heat in Washington, D.C.; and livestock could never swim to offshore islands protected by California Coastal, Buck Island Reef, and Virgin Islands Coral Reef National Monuments. Governors Island protects two historic military forts on two acres in New York. Pompeys Pillar is too small to support grazing, as is Minidoka Internment National Monument, which memorializes the incarceration of thousands of Japanese-Americans on the West coast by the United States during World War II.<sup>19</sup>

For the remainder of the Clintonian monuments, we wish we could report that the former President got tougher on cows during his short flurry of national monument designations, but there are a few developments to report. Grazing appears to have been either perpetuated or restricted in each national monument based on the history of the area, the future envisioned for each reservation, and local politics. For the Grand Staircase-Escalante National Monument established in 1996,

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Establishment of the Ironwood Forest National Monument, Proclamation No. 7320, 65 Fed. Reg. 37259 (June 9, 2000); Establishment of the Grand Canyon-Parashant National Monument, Proclamation No. 7265, 65 Fed. Reg. 2825 (Jan. 11, 2000); Establishment of the Giant Sequoia National Monument, Proclamation No. 7295, 65 Fed. Reg. 24095 (Apr. 15, 2000); Vermillion Cliffs National Monument, Proclamation No. 7374, 65 Fed. Reg. 69227 (Nov. 9, 2000); Establishment of the Carrizo Plain National Monument, Proclamation No. 7393, 66 Fed. Reg. 7339 (Jan. 17, 2001); Establishment of the Upper Missouri River Breaks National Monument, Proclamation No. 7398, 66 Fed. Reg. 7359 (Jan. 17, 2001); Establishment of the Hanford Reach National Monument, Proclamation No. 7319, 65 Fed. Reg. 37253 (June 9, 2000); Establishment of the Cascade-Siskiyou National Monument, Proclamation No. 7318, 65 Fed. Reg. 37249 (June 9, 2000); Establishment of the Kasha-Katuwe Tent Rocks National Monument, Proclamation No. 7394, 66 Fed. Reg. 7343 (Jan. 17, 2001); Establishment of the Sonoran Desert National Monument, Proclamation No. 7397, 66 Fed. Reg. 7354 (Jan. 17, 2001); Boundary Enlargement of the Pinnacles National Monument, Proclamation No. 7266, 65 Fed. Reg. 2831 (Jan. 11, 2000); Boundary Enlargement of the Craters of the Moon National Monument, Proclamation No. 7373, 65 Fed. Reg. 69221 (Nov. 9, 2000); Establishment of the California Coastal National Monument, Proclamation No. 7264, 65 Fed. Reg. 2821 (Jan. 11, 2000); Establishment of the Pompey's Pillar National Monument, Proclamation No. 7396, 66 Fed. Reg. 7351 (Jan. 17, 2001); Boundary Enlargement and Modifications of the Buck Island Reef National Monument, Proclamation No. 7392, 66 Fed. Reg. 7335 (Jan. 17, 2001); President Lincoln and Soldiers' Home National Monument, Proclamation No. 7329, 65 Fed. Reg. 43673 (July 7, 2000); Establishment of the Virgin Islands Coral Reef National Monument, Proclamation No. 7399, 66 Fed. Reg. 7364 (Jan. 17, 2001); Establishment of the Governors Island National Monument, Proclamation No. 7402, 66 Fed. Reg. 7855 (Jan. 19, 2001).

19. As part of their agriculture program, internees engaged in livestock production on parts of 33,000 acres at Minidoka. Establishment of the Minidoka Internment National Monument, Proclamation No. 7395, 66 Fed. Reg. 7347 (Jan. 17, 2001). However, considering what happened to these imprisoned Americans during the war, the authors do not begrudge them any public lands grazing they did in the internment camp.

Clinton proclaimed, “Nothing in this proclamation shall be deemed to affect existing permits or leases for, or levels of, livestock grazing on Federal lands within the monument; existing grazing uses shall continue to be governed by applicable laws and regulations other than this proclamation.”<sup>20</sup> Four years later, President Clinton used similar language when designating Agua Fria National Monument. “Laws, regulations, and policies followed by the Bureau of Land Management in issuing and administering grazing leases on all lands under its jurisdiction shall continue to apply with regard to the lands in the monument.”<sup>21</sup> Identical language exists for the Canyons of the Ancients<sup>22</sup> and Ironwood Forest National Monuments.<sup>23</sup> Other proclamations that contain similar language include the proclamation that expanded Pinnacles National Monument (NPS)<sup>24</sup> and those that established Grand Canyon-Parashant National Monument (BLM),<sup>25</sup> Giant Sequoia National Monument (USFS),<sup>26</sup> Vermillion Cliffs (BLM),<sup>27</sup> Carrizo Plain (BLM),<sup>28</sup> and the expansive Upper Missouri River Breaks (BLM)<sup>29</sup> (where livestock grazing is a major ecological irritant).

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20. Establishment of the Grand Staircase-Escalante National Monument, Proclamation No. 6920, 110 Stat. 4561, 4564 (Sept. 18, 1996).

21. Establishment of the Agua Fria National Monument, Proclamation No. 7263, 65 Fed. Reg. 2817, 2819 (Jan. 11, 2000).

22. Establishment of the Canyons of the Ancients National Monument, Proclamation No. 7317, 65 Fed. Reg. 37241, 37245 (June 9, 2000).

23. Establishment of the Ironwood Forest National Monument, Proclamation No. 7320, 65 Fed. Reg. 37259, 37260 (June 9, 2000).

24. Boundary Enlargement of the Pinnacles National Monument, Proclamation No. 7266, 65 Fed. Reg. 2831, 2832 (Jan. 11, 2000). Grazing is permitted in the newly expanded Pinnacles area, but it is prohibited elsewhere in the monument. *See* Baldwin & Vincent, *supra* note 4.

25. Establishment of the Grand Canyon-Parashant National Monument, Proclamation No. 7265, 65 Fed. Reg. 2825, 2828 (Jan. 11, 2000).

26. Establishment of the Giant Sequoia National Monument, Proclamation No. 7295, 65 Fed. Reg. 24095, 24098 (Apr. 15, 2000).

27. Vermillion Cliffs National Monument, Proclamation No. 7374, 65 Fed. Reg. 69227, 69229 (Nov. 9, 2000).

28. Establishment of the Carrizo Plain National Monument, Proclamation No. 7393, 66 Fed. Reg. 7339, 7341 (Jan. 17, 2001).

29. Establishment of the Upper Missouri River Breaks National Monument, Proclamation No. 7398, 66 Fed. Reg. 7359, 7361 (Jan. 17, 2001).



The proclamations establishing the Grand Staircase-Escalante and most of Clinton's subsequent designations avoid dealing with grazing by simply stating that current federal statutes and Bureau of Land Management (BLM) regulations and policies shall continue to apply to grazing within each reservation. Under these laws and regulations, BLM has the authority to perpetuate or end livestock grazing on public lands regardless of whether it is a monument.<sup>30</sup>

For the five monuments not accounted for above, Clinton tackled livestock grazing (or not) depending on the individual circumstances of each monument. For example, in his Hanford Reach National Monument Proclamation Clinton states, "For the purpose of protecting the objects identified above, the Secretary of the Interior shall prohibit livestock grazing."<sup>31</sup> While this proclamation is a breakthrough in presidential-livestock relations, it is not very significant because livestock grazing has been banned from the Hanford Reach since 1942, four years before President Clinton was born. Additionally, the primary object of "scientific interest" to be protected by the national monument designation was the pristine, ungrazed grassland.<sup>32</sup>

President Clinton was somewhat more daring in his proclamation establishing Cascade-Siskiyou National Monument. Persuaded by local conservationists, Clinton directed the Secretary of Interior, acting through the BLM, to determine whether grazing is compatible with the purposes of the new monument, and especially with "sustaining the natural ecosystem dynamics."<sup>33</sup> If the Secretary found grazing to be an incompatible use, then she was directed to retire the grazing permits for allotments inside the monument. Clinton's Cascade-Siskiyou National Monument Proclamation states:

The Secretary of the Interior shall study the impacts of livestock grazing on the objects of biological interest in the monument with specific attention to sustaining the natural ecosystem dynamics. Existing authorized permits or leases may continue with appropriate terms and conditions under existing laws and regulations. Should grazing be found incompatible with protecting the objects of biological interest, the Secretary shall retire the grazing allotments

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30. See generally DONAHUE, *supra* note 5; Baldwin & Vincent, *supra* note 4. While the BLM has not acted on its own authority to eliminate grazing in any national monument, it has facilitated third-party grazing permit buyouts to retire grazing allotments in the Grand Staircase-Escalante and elsewhere. See Brent Israelsen, *Grazing May End on Chunk of Land in Grand Staircase*, SALT LAKE TRIB. (Nov. 27, 2001).

31. Establishment of the Hanford Reach National Monument, Proclamation No. 7319, 65 Fed. Reg. 37253, 37255 (June 9, 2000).

32. See *id.*

33. Establishment of the Cascade-Siskiyou National Monument, Proclamation No. 7318, 65 Fed. Reg. 37249, 37251 (June 9, 2000).

pursuant to the processes of applicable law. Should grazing permits or leases be relinquished by existing holders, the Secretary shall not reallocate the forage available under such permits or for livestock grazing purposes unless the Secretary specifically finds, pending the outcome of the study, that such reallocation will advance the purposes of the proclamation.<sup>34</sup>

In the case of the Cascade-Siskiyou, the two major ecological irritants driving national monument designation were off-road vehicle use and livestock grazing. Not a single mining claim blemished the area, and the economic value of the standing timber is marginal and not otherwise calculated in the regional timber base. Clinton's request for a grazing compatibility study was acknowledgment of his administration's concern about grazing impacts on the Cascade-Siskiyou ecosystem.

President Clinton regressed from his Cascade-Siskiyou proclamation when he enlarged the Craters of the Moon National Monument in Idaho five months later. Of the approximately 660,000-acre addition, the Park Service will manage 410,000 acres and the BLM will manage 251,000 acres.<sup>35</sup> However, the Park Service's acreage is mostly "exposed lava flows"<sup>36</sup> while the BLM was given the "shrub-steppe lands historically used for grazing."<sup>37</sup> Within the Park Service section, some "kipukas," like the ones President Kennedy sought to protect in his 1962 enlargement,<sup>38</sup> will be preserved from livestock grazing.

The kipukas provide a window on vegetative communities of the past that have been erased from most of the Snake River Plain. In many instances, the expanse of rugged lava surrounding the small pockets of soils has protected the kipukas from people, animals, and even exotic plants. As a result, these kipukas represent some of the last nearly pristine and undisturbed vegetation in the Snake River Plain, including 700-year-old

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34. *Id.*

35. Boundary Enlargement of the Craters of the Moon National Monument, Proclamation No. 7373, 65 Fed. Reg. 69221, 69222 (Nov. 9, 2000).

36. *Press Release, President Clinton, Protecting America's Natural and Cultural Heritage* (Nov. 9, 2000) (on file with authors).

37. *Id.*

38. *See supra* note 13 and accompanying text.

juniper trees and relict stands of sagebrush that are essential habitat for sensitive sage grouse populations.<sup>39</sup>

Within the BLM section where most grazing occurs, President Clinton merely recycled his standard BLM language applying laws, regulations, and policies currently used by the agency to manage grazing in the area.<sup>40</sup>

Among the eight national monuments that President Clinton proclaimed just three days before leaving office were the Kasha-Katuwe Tent Rocks and Sonoran Desert National Monuments. Kasha-Katuwe Tent Rocks preserves 7,500 years of human history and artifacts in north central New Mexico.<sup>41</sup> Very little grazing occurs in the 4,100-acre monument, so Clinton sought to retire the grazing allotments. He proclaimed, "Only a very small amount of livestock grazing occurs inside the monument. The Secretary of the Interior shall retire the portion of the grazing allotments within the monument, pursuant to applicable law, unless the Secretary specifically finds that livestock grazing will advance the purposes of the proclamation."<sup>42</sup>

The Sonoran Desert National Monument preserves important archaeological sites and contains critical habitat for the Sonoran pronghorn and desert tortoise in Arizona.<sup>43</sup> The proclamation describes the Sand Tank Mountains, included in the monument, as a no-grazing haven.

The rich diversity, density, and distribution of plants in the Sand Tank Mountains area of the monument is especially striking and can be attributed to the management regime in place since the area was withdrawn for military purposes in 1941. In particular, while some public access to the area is allowed, no livestock grazing has occurred for nearly 50 years . . . . Rare patches of

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39. Boundary Enlargement of the Craters of the Moon National Monument, Proclamation No. 7373, 65 Fed. Reg. 69221, 69222 (Nov. 9, 2000).

40. The White House press release accompanying Clinton's enlargement of Craters of the Moon inexplicably stated that "[c]urrently permitted livestock grazing . . . will generally not be permitted." There is no provision in the proclamation mandating that the grazing permits be retired. *Press Release*, *supra* note 36.

41. Establishment of the Kasha-Katuwe Tent Rocks National Monument, Proclamation No. 7394, 66 Fed. Reg. 7343 (Jan. 17, 2001).

42. *Id.* at 7344.

43. Establishment of the Sonoran Desert National Monument, Proclamation No. 7397, 66 Fed. Reg. 7354 (Jan. 17, 2001).

desert grassland can also be found . . . in the Sand Tank Mountains area.<sup>44</sup>

The Sonoran Desert proclamation also includes President Clinton's most ardent stance against livestock grazing. Clinton executively retired grazing permits in part and ordered the BLM to allow grazing in the remainder of the monument only if it is compatible with the primary purpose of the monument.

Laws, regulations, and policies followed by the Bureau of Land Management in issuing and administering grazing permits or leases on all lands under its jurisdiction shall continue to apply with regard to the lands in the monument; provided, however, that grazing permits on Federal lands within the monument south of Interstate Highway 8 shall not be renewed at the end of their current term; and provided further, that grazing on Federal lands north of Interstate 8 shall be allowed to continue only to the extent that the Bureau of Land Management determines that grazing is compatible with the paramount purpose of protecting the objects identified in this proclamation.<sup>45</sup>

Despite the inconsistent progress described, public land livestock grazing (where it occurs) has become an issue that must be addressed during presidential consideration of new national monuments. Where harmful grazing occurs in existing monuments, the federal government should reduce or eliminate livestock in those areas, either through administrative action pursuant to current management authority or by buying out grazing interests from graziers and retiring the associated grazing allotments.<sup>46</sup>

Whether grazing is perpetuated in current and future national monuments depends on the present administration. Gale Norton, the Secretary of the Interior, has signaled that President George W. Bush will not attempt to undo any Clintonian monuments.<sup>47</sup> However, aside from the difficulty presented by the Antiquities Act, Norton has stated

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44. *Id.* at 7356.

45. *Id.*

46. For more information about federal grazing permit buyout, see Mark Salvo & Andy Kerr, *Permits for Cash: A Fair and Equitable Resolution to the Public Land Range War*, 23 RANGELANDS 1: 22-24 (2001); see also Andy Kerr & Mark Salvo, *Livestock Grazing in the National Park and Wilderness Systems*, 10 WILD EARTH 2: 45-52 (2000).

47. Pianin, E. 2001, *Bush not seeking to overturn any new monuments*, THE OREGONIAN (Feb. 21, 2001): A1. It would be difficult to undo a national monument because the Antiquities Act appears only to authorize presidents to "proclaim," not disclaim, monuments. Under the plain text of the Act, "[t]he President . . . is authorized, in his discretion, to declare, by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic and scientific interest . . . to be national monuments . . ." 16 U.S.C. § 431 (2001).

that she wants to work with Congress to adjust boundaries and allowed uses, which might include grazing.<sup>48</sup> Ultimately, time will tell whether President Bush continues or reverses what may be a developing trend against livestock use in national monuments.

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48. See also Pamela Baldwin, *Authority of a President to Modify or Eliminate a National Monument*, Congressional Research Service Report RS20647 (2000).