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9 July 2017

The Honorable Ryan Zinke

Monument Review, MS-1530
U.S. Department of the Interior,
1849 C Street NW.,
Washington, DC 20240

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Giant Sequoia National Monument Review

Thank you for the opportunity to provide written comments regarding the Giant Sequoia National Monument review at <https://www.regulations.gov/document?D=DOI-2017-0002-0001> at <http://www.regulations.gov> by entering “DOI-2017-0002” in the Search bar and clicking “Search,” and submitted **before July 10, 2017**.

Sequoia ForestKeeper® is pleased to provide these comments on the review of the Giant Sequoia National Monument on behalf of its Board of Directors, members, and supporters. Please consider Sequoia ForestKeeper® an interested person and place us on the mailing list for all future information on this review, so we can submit comments in a timely manner.

Sequoia ForestKeeper® (SFK) members regularly camp, hike, and enjoy our local National Monument. SFK has long been involved with gaining greater protection for giant sequoias and their ecosystems and issues related to the establishment of the Giant Sequoia National Monument, as our members have attended and testified at the numerous public meeting and hearings concerning the monument establishment, including the meetings in Fresno and Visalia in the year 2000, which included a wide variety of stakeholders. Since the late 1980s, our members have campaigned for greater protection and were involved prior to the proclamation of this national monument. We have no doubt that much more than adequate public outreach and coordination with relevant stakeholders was made prior to the establishment of the Giant Sequoia National Monument.

The Giant Sequoia National Monument allows hunting, fishing, dispersed camping, grazing, hiking, horseback riding or bicycle riding or hiking; it provides access to all such activities. Existing leases for homes, organizational camps, beekeeping, livestock grazing, outfitters and existing mining and water extraction rights have all continued under the Giant Sequoia National Monument designation. This monument does not “lock up” public lands. The Monument sets aside only 328,315 acres, out of 1,193,315 total acreage of Sequoia National Forest. That is only 28% of the total area that is designated to provide special protection for the ancient giant sequoia groves and other natural, historic, and cultural resources within its boundaries. These magnificent trees need this protection to ensure access to the aquifer for their shallow roots.

SUMMARY OF DOI REVIEW CRITERIA

The U.S. Department of the Interior is conducting a review of certain National Monuments designated or expanded since 1996 under the Antiquities Act of 1906 in order to implement Executive Order 13792 of April 26, 2017. The Secretary of the Interior will use the review to determine whether each designation or expansion conforms to the policy stated in the Executive Order and to formulate recommendations for Presidential actions, legislative proposals, or other appropriate actions to carry out that policy. This Notice identifies twenty-seven National Monuments under review and invites comments to inform the review.

Executive Order 13792 of April 26, 2017 (82 FR 20429, May 1, 2017), directs the Secretary of the Interior to review certain National Monuments designated or expanded under the Antiquities Act of 1906, 54 U.S.C. 320301-320303 (Act). Specifically, Section 2 of the Executive Order directs the Secretary to conduct a review of all Presidential designations or expansions of designations under the Antiquities Act made since January 1, 1996, where the designation covers more than 100,000 acres, where the designation after expansion covers more than 100,000 acres, or **where the Secretary determines that the designation or expansion was made without adequate public outreach and coordination with relevant stakeholders**, to determine whether each designation or expansion conforms to the policy set forth in section 1 of the order. Among other provisions, Section 1 states that **designations should reflect the Act's "requirements and original objectives" and "appropriately balance the protection of landmarks, structures, and objects against the appropriate use of Federal lands and the effects on surrounding lands and communities."** 82 FR 20429 (May 1, 2017).

In making the requisite determinations, the Secretary is directed to consider:

- (i) The **requirements and original objectives of the Act**, including the Act's requirement that reservations of land **not exceed "the smallest area compatible with the proper care and management of the objects to be protected"**;
- (ii) whether designated lands are appropriately classified under the Act as **"historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest"**;
- (iii) the **effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy** of section 102(a)(7) of the Federal Land Policy and Management Act (43 U.S.C. 1701(a)(7)), **as well as the effects on the available uses of Federal lands beyond the monument boundaries**;
- (iv) **the effects of a designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries**;
- (v) **concerns of State, tribal, and local governments affected by a designation, including the economic development and fiscal condition of affected States, tribes, and localities**;
- (vi) **the availability of Federal resources to properly manage** designated areas; and
- (vii) such **other factors** as the Secretary deems appropriate. 82 FR 20429-20430 (May 1, 2017).

RECENT DESIGNATIONS, CONGRESSIONAL, AGENCY, AND PUBLIC REVIEW

In 1992, President Bush barred commercial logging within sequoia groves on national forests,¹ but the groves remained highly vulnerable to harm from logging on adjacent federal lands within the sub-watershed.²

President Clinton's proclamation establishing Giant Sequoia National Monument on April 15, 2000, followed nearly a decade of not enacted legislative proposals to secure vitally necessary protections for the "majestic" giant sequoia groves that remained otherwise vulnerable to harm from logging. Legislation championed by Congressman George Brown and others to permanently protect the groves and surrounding forest (on which those groves depend) did not pass Congress.

Prior to establishing Giant Sequoia National Monument, Present Clinton asked Secretary of Agriculture Daniel R. Glickman to review whether appropriate stewardship for the sequoia groves warranted exercise of his authority under the Antiquities Act to ensure permanent protection to objects of historic or scientific interest on federal land, and to issue a recommendation.³ President Clinton specifically requested that the Secretary "consult with appropriate members of Congress, as well as tribal, state, and local officials and other interested parties, and carefully consider their views in making [the] recommendation."⁴ President Clinton also asked the Secretary to "draw on the scientific and management expertise of the National Park Service, the Bureau of Land Management, and the State of California regarding sequoia groves located on their lands."⁵

After conducting a careful review of the scientific data and other information per President Clinton's request, Secretary Glickman recommended that President Clinton establish a 355,000 acre national monument. The Secretary's recommendation was based on information gathered by a team of career federal employees, including members from the Sequoia National Forest, Washington Office staff, as well as U.S.G.S. Biological Resources Division, the Bureau of Land Management and National Park Service within the Department of Interior.⁶ They conducted an intensive review of available scientific and other information, such as historical texts and environmental documentation prepared for previous federal actions within the area. **"Despite their tremendous size, Giant Sequoias are vulnerable," Glickman said. "They are very much affected by what happens on the surrounding forest. Logging or nearby development can profoundly affect water quality in the groves and threaten the long-term survival of these**

¹ Giant Sequoia National Monument (April 15, 2000), https://clintonwhitehouse5.archives.gov/CEQ/history_sequoia.html.

² See USDA Press Release No.0111.00 http://vault.sierraclub.org/ca/sequoia/Monument/glickman_release_4-7-00.txt (USDA Secretary Glickman statement acknowledging vulnerability of giant sequoias to harm from water quality changes caused by adjacent logging or development).

³ Letter from President Clinton to Sec. Glickman (Feb. 14, 2000) <http://vault.sierraclub.org/ca/sequoia/Monument/PresidentsLetter.htm>.

⁴ Letter from President Clinton to Sec. Glickman (Feb. 14, 2000) <http://vault.sierraclub.org/ca/sequoia/Monument/PresidentsLetter.htm>.

⁵ Letter from President Clinton to Sec. Glickman (Feb. 14, 2000) <http://vault.sierraclub.org/ca/sequoia/Monument/PresidentsLetter.htm>.

⁶ USDA Press Release No. 0111.00, "GLICKMAN RECOMMENDS CREATION OF SEQUOIA NATIONAL MONUMENT" (Apr. 7, 2000), (http://vault.sierraclub.org/ca/sequoia/Monument/glickman_release_4-7-00.txt).

rare trees."⁷ The team gathered extensive public comments from two public meetings held in the Visalia and Fresno, California, and in consultation with the State, members of the California congressional delegation, local governments and the Tule River Tribal Council.⁸ Secretary Glickman's recommendation specifically provided terms to address the concerns of, and potential impacts to, forest dependent communities.⁹ On that recommendation, and informed by it, President Clinton established the Giant Sequoia National Monument.¹⁰

Public support for the designation was widespread. California residents sent 600,000

Post cards expressing support, and, at the time of the designation, 80 percent of the public favored the establishment of the Monument, according to polling.¹²

Therefore the idea and concept of protecting approximately the same size and same conditions and restrictions had been reviewed with public and Congressional input many times. Then there were the two public hearings in 2000- in Visalia and in Fresno when Clinton was considering the creation of the Monument in 2000.

GIANT SEQUOIA NATIONAL MONUMENT SIZE MATTERS

The Giant Sequoia National Monument was created to protect more than the sequoia groves. Those who would reduce the size and protections of the Monument are trying to declare that the 'groves' are the main 'objects' to be protected and to denigrate the management of the interwoven forest. This is counter to the intent and actual wording of the proclamation.

Giant Sequoia National Monument (GSNM) was proclaimed out of Sequoia National Forest by President Clinton in April 2000. The Monument protects much more than the ancient cathedral forests of giant sequoias and their protective neighboring forested ecosystems. If you read the wording of the Proclamation, the President clearly states that the Monument is to protect ALL the objects mentioned in the entire first half of the Proclamation itself. Groves are the objects most obvious to the public because of the name of the Monument. However, Proclamation language clearly includes, and I quote, "diverse array of plants and animals", "Sequoias and their surrounding ecosystems", "habitats for an extraordinary diversity of plant species and communities", "more than 200 plant species endemic to the southern Sierra Nevada mountain range", "domes and spires", "Numerous meadows and streams provide an interconnected web of habitats for moisture-loving species", "essential habitat for wildlife, ranging from large, charismatic animals to less visible and less familiar forms of life, such as fungi and insects", "great gray owl, American marten, northern goshawk, peregrine falcon, spotted owl, Pacific

⁷ USDA Press Release No. 0111.00 http://vault.sierraclub.org/ca/sequoia/Monument/glickman_release_4-7-00.txt,

⁸ USDA Press Release No. 0111.00 http://vault.sierraclub.org/ca/sequoia/Monument/glickman_release_4-7-00.txt;
https://clintonwhitehouse5.archives.gov/CEQ/history_sequoia.html

⁹ USDA Press Release No.0111.00 http://vault.sierraclub.org/ca/sequoia/Monument/glickman_release_4-7-00.txt;
Battle lines drawn over Sequoia monument (April 12, 2000)
<http://us.cnn.com/2000/NATURE/04/12/sequoia.monument.enn/>.

¹⁰ PRESIDENT CLINTON AND VICE PRESIDENT GORE: A NEW NATIONAL MONUMENT TO PRESERVE ANCIENT SEQUOIAS (April 15, 2000) <https://clintonwhitehouse5.archives.gov/CEQ/sequoias.html>

¹² Press Briefing on Clinton's Trip to Sequoia National Forest, U.S. Newswire, April-15, 2000.

fisher, and a number of rare amphibians", and "California condor" You can read for yourselves the broad strokes that have been used to describe what is to be protected.

The American public supports parks, monuments, open space, wildlife protection, and sequoias.

GIANT SEQUOIA NATIONAL MONUMENT SIZE AND ANTIQUITIES ACT USE RULED LEGAL

Local government promoted by a small cadre of unsustainable industries sued to deny the protection of the monument and lost in the courts. In 2000, the Tulare County Board of Supervisors and members of the logging industry filed suit against the Clinton administration, alleging the president overstepped the laws when he created the monument and claimed that the size specified was larger than necessary. A federal judge ruled against that lawsuit, asserting that the monument followed every step of the law. The case was then appealed to a three-judge Washington, D.C., appellate panel, which also ruled against the lawsuit. *Tulare County v. Bush*, 306 F.3d 1138, 1142 (D.C. Cir. 2002).

The courts have deferred to the President's judgment as to the proper size for a monument. For example, a lawsuit challenging the Giant Sequoia National Monument was based in part on the monument's size (328,315 acres) not being "the smallest area compatible with proper care and management," as required by the act. The size ("minimum needed to protect objects of interest") was litigated (*Tulare County vs Executive Branch*) and the D.C. Court of appeals upheld the lower court's findings that the Monument WAS the smallest size necessary. The court found no factual basis for the argument that the size did not meet the standards of the act. <https://fas.org/sgp/crs/misc/R41330.pdf>

The second issue, in addition to Monument size, is failure to have had public hearings or congressional hearings prior to designation. In the case of the Giant Sequoia National Monument, these issues seem to be invalid since pre-proclamation public hearings were announced and held in Fresno and Tulare Counties.

CALIFORNIA ATTORNEY GENERAL DEFINES LEGAL ANTIQUITIES ACT MONUMENT HISTORY

On 8 June 2017, XAVIER BECERRA, ATTORNEY GENERAL of California sent the attached letter to The Honorable Ryan Zinke, Secretary, U.S. Department of the Interior regarding the legal issues surrounding the Antiquities Act.

"I write to strongly oppose any attempt by President Trump to revoke or weaken the existing protections on national monuments in California and elsewhere. National monument designations protect the irreplaceable natural and cultural heritage belonging to all Americans, ensuring that the haste or greed of one generation does not squander those gifts at the expense of future generations. And, these designations invite recreational and other preservation-friendly uses of these lands, attracting visitors from near and far, and bringing lasting economic opportunity to gateway communities and surrounding areas. Any attempt by President's Trump Administration to reverse decisions past Presidents have made to safeguard our most treasured public lands is as unwise as it is unlawful. As the Attorney General of California, I am determined to take any and all legal action necessary to protect the American heritage contained in our monument lands."

PRESIDENTS HAVE SUPPORTED NOT RESCINDED PREVIOUS MONUMENT DESIGNATIONS

The legalities of one President rescinding a former president's Proclamation; has never been done before. There is no precedent for such an action. Even George Bush vigorously defended the Giant Sequoia National Monument (despite campaign rhetoric) in that first lawsuit filed by Tulare County and the timber industry.

The use of the Antiquities Act by a president and the size of the GSNM, given the conditions at the time of the proclamation, are supported by that case-law.

<https://fas.org/sgp/crs/misc/R41330.pdf>

<https://casetext.com/case/tulare-county-v-bush-3>

Also, if I recall correctly, the 1976 Federal Land Policy and Management Act decreed that the secretary of the Interior (or the president) cannot "modify or revoke any withdrawal creating national monuments" under the Antiquities Act.

GIANT SEQUOIA NATIONAL MONUMENT PROTECTION OF OBJECTS OF INTEREST

Unsupported claims have been made that logging should be increased to protect the sequoias and the surrounding ecosystems, but science tells a different story. The 1996 scientific study of the Sierra Nevada forests, commissioned and funded by Congress, named the Sierra Nevada Ecosystem Project (SNEP), found that "logging increases fire severity more than any other recent human activity". Many other studies reached similar conclusions. Over the past forty years, Sequoias in Sequoia National Park have been better managed by the National Park Service by natural processes—not logging, but prescribed fire.

Science indicates that forests with the highest levels of protection from logging tend to burn least severely. <http://onlinelibrary.wiley.com/doi/10.1002/ecs2.1492/full>

GIANT SEQUOIA NATIONAL MONUMENT TOURISM = GROWTH + ECONOMIC BENEFIT FOR COUNTIES

Tourism is one of California's major growth industries contributing billions to the economy. Nature tourism is the life blood of the Sierra Nevada. Bird watching, photography, hiking, camping, backpacking, rock climbing, rafting, mountain biking, skiing, hunting, canoeing, boating, fishing, and just being outdoors are huge tourism magnets in the mountain communities of Kern, Tulare, and Fresno Counties.

SCIENTIFICALLY-BASED GROVE BOUNDARIES HAVE NEVER BEEN DEFINED

The Sequoia National Forest Land and Resource Management Plan 1988 (Sequoia LRMP), which is still in effect, as amended by the 1990 Mediated Settlement Agreement—a legally binding contract, failed to complete the promised task of creating a management plan for giant sequoias and independently establishing grove boundaries.

The Sequoia LRMP specifies that The Giant Sequoia Management Implementation Plan will be developed, but no such plan has ever materialized.

A PLAN SPECIFYING MANAGEMENT EMPHASIS FOR EACH GROVE WILL BE COMPLETED WITHIN THE PLAN PERIOD (Sequoia LRMP Pg. 2-7)

CURRENTLY NEW MANAGEMENT ACTIVITIES ARE NOT PLANNED WITHIN SEQUOIA GROVES PENDING COMPLETION OF GIANT SEQUOIA MANAGEMENT IMPLEMENTATION PLAN (Sequoia LRMP Pg. 3-51)

COMPLETE FORESTWIDE GIANT SEQUOIA MANAGEMENT IMPLEMENTATION PLAN WHICH MAKES THE FINAL ASSIGNMENT OF MANAGEMENT EMPHASIS TO EACH GROVE. THE FINAL ASSIGNMENT OF MANAGEMENT EMPHASIS IS EXPECTED TO FALL WITHIN THE FOLLOWING RANGES SHOWN ON TABLE 4.3. (Sequoia LRMP Pg. 4-33)

EXCEPT FOR EMERGENCY REHABILITATION DUE TO CATASTROPHIC EVENTS DO NOT PLAN ANY NEW MANAGEMENT ACTIVITIES THAT WILL AFFECT GIANT SEQUOIA TREES UNTIL THE FORESTWIDE MANAGEMENT IMPLEMENTATION PLAN IS COMPLETED. (Sequoia LRMP Pg. 4-33)

RECOGNIZE THE FOLLOWING GROVE BOUNDARIES PENDING DEVELOPMENT OF THE FORESTWIDE MANAGEMENT GROVE IMPLEMENTATION PLAN

a) BOUNDARIES THAT HAVE BEEN MAPPED

b) WHERE NO MAPPING HAS BEEN DONE THE TYPE LINES FROM THE LMP DATA BASE STRATA MAPS WILL BE USED. (Sequoia LRMP Pg. 4-33)

MEDIATED SETTLEMENT AGREEMENT, A LEGAL CONTRACT, CONTINUES TO BE IN EFFECT

A president cannot set aside a contract/ and the Mediated Settlement Agreement (MSA) is a contract. So until the 1988 LMP is revised in its final form, the MSA should still protect the actual groves- but not lands outside those narrowly defined groves.

Congress initiated the SNEP process -first intended to look at the MSA protection of sequoias and then expanded to the entire Sierra. A special section of the Congressionally-mandated and funded Sierra Nevada Ecosystem Project (SNEP) report written by Nate Stephenson reviews the sequoias and their protection under the MSA. A key finding was that the MSA grove boundaries were not scientifically based and should be entire sub watersheds- which, of course, the Monument encompasses.

The President lacks authority under the Antiquities Act to change or reduce or rescind a Monument created by a previous President and, of course, the Giant Sequoia National Monument protects a full range of objects (species, historic and prehistoric artifacts, geological features) not merely the sequoia for which it is named. However, it may be important for the sake of argument to reiterate that **the acreage defined by the USFS as 'groves' is unsupported by any scientific inquiry or consensus among the agencies and scientists that study and manage sequoia.**

There may be false assumptions when providing input in addressing the apparent intent to reduce the size of the Giant Sequoia National Monument to only the acreage defined by the USFS as 'groves.' **After all this time, many may not know or remember that the USFS definition of 'grove' has NO basis in science and in some cases outlying sequoia trees are not defined as inside a grove.** No one currently at the USFS was around during the development of

the identification of the groves and now those groves are mapped, based on the MSA negotiated definition, and locked into bureaucratic cement. (See attached Map of sequoia groves as currently defined.)

Prior to 1990, the USFS had no definition of a 'sequoia grove'- it was based entirely on tradition. The MSA process goal was to stop logging in groves - but how to define a grove? The Park has no need to carefully define groves because Park management was not different across the mixed conifer ecosystem. They were not going to log around little islands called "groves."

During the MSA process, a group met with the timber industry and the USFS to decide what a 'grove' was to protect them from commercial logging - there was virtually NO scientific information discussed nor was there any intent to use scientific criteria during this process: it was all about the Allowable Sale Quantity (ASQ). Each proposal was run through FORPLAN and if the resulting timber yield was not acceptable to industry, the definition of 'grove' was narrowed. In general, the resulting definition is based on measuring 500' from the outermost sequoia in a group and then planting a sign. There was also a so-called grove influence zone where some logging could occur. There was a strange provision that, if several sequoia were found too far from an established grove, they were not included as part of the grove because the industry did not want to lose any acres from the timber base.

During SNEP, shortly after the MSA, the USFS initiated the Giant Sequoia Ecology Cooperative <https://www.savetheredwoods.org/grant/giant-sequoia-ecology-cooperative-web-site/> composed of representatives of all agencies that manage sequoias (State, USFS, UC, BLM,) and various scientists. About this time SNEP noted that the USFS definition of "grove" had no scientific basis. One of the first goals of the Cooperative was to define, based on science, what a 'sequoia grove' was. Nate Stephenson had suggested that the place to begin was the watershed. And even the Piirto and Rogers report said the place to start was the watershed... no one defended the MSA grove definition (the definition STILL in place). The USFS and the timber industry had no intention of ever letting a bunch of non-USFS sequoia scientists expand their definition of grove. The USFS was in charge of calling meetings of the Giant Sequoia Ecology Cooperative, but we have not heard that any other meetings were held once the SNEP report was published. Therefore there is NO Science based peer-reviewed definition of a sequoia grove. And there has been no re-addressing of a scientific definition of 'sequoia grove.'

This review of the GSNM by the DC Administration and those that would remove any protection of public lands - are pushing to narrow the size and/or management strategies in order to only protect the groves from logging - AND they will be using the narrowly defined, unscientific, and unreasonable MSA definition of Grove, because there is no other definition.

As Martin Litton said, "The entire western slope of the Sierra Nevada is a grove; the sequoias are just closer together in some places." Now THAT is a good definition!

Below: excerpt from SNEP: Stephenson:

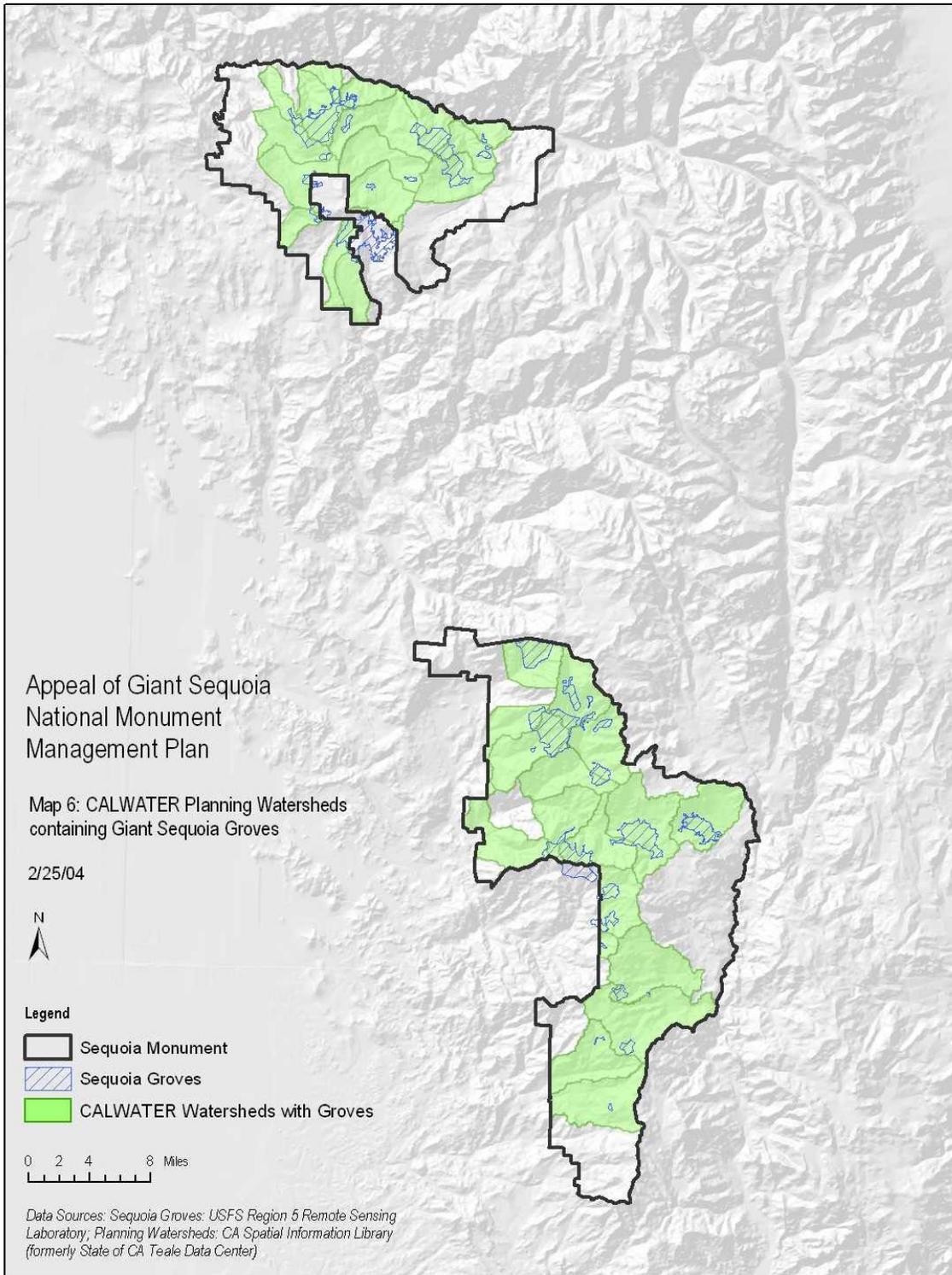
Land Needs
Grove Influence Zones

"The MSA (U.S. Forest Service 1990) specified that sequoia grove boundaries would be defined by "... an interim 500 foot buffer extending from a hypothetical perimeter line around the outermost known giant sequoias in the Grove[s]." There was to be no logging or other mechanical entry in this zone, except that with the specific purpose of reducing fuel loads. An additional 500-foot zone, called the grove influence zone, was to extend beyond the 500-foot administrative boundary; certain restrictions were placed on logging within the grove influence zone. Many specific exceptions to these methods of defining groves and grove influence zones are listed in the MSA (U.S. Forest Service 1990). For example, several groves were to have 300-foot administrative boundaries surrounded by 300-foot grove influence zones. Additionally, topographic features such as ridges could take precedence in finalizing grove boundaries and influence zones, when such features logically and physically separated giant sequoias from the general forest. Rogers et al. (1995) describe the issues and mechanics that led to the final mapping of USFS groves and their influence zones.

The MSA's definition of grove influence zones has little ecological basis." End Quote.

PROTECTING JUST THE GROVES WOULD MEAN ISOLATING THEM INTO LITTLE ISLANDS AND SEPARATING THEM- GOES BACK TO THE SAME SITUATION AS BEFORE THE MONUMENT. AND OF COURSE THE FACT THAT THEY ARE BEING MANAGED BY THE USFS IS A HUGE PROBLEM THAT WE CANNOT TACKLE NOW. AND DON'T FORGET THAT THE MONUMENT PROTECTS MORE THAN GIANT SEQUOIAS!! THEY WILL HAVE TO CHANGE THE PURPOSE OF THE MONUMENT TO PROTECT ONLY GROVES....

BELOW: CURRENT USFS map of sequoia groves and their 'influence zones'.



MEDIATED SETTLEMENT AGREEMENT INTERIM DEFINITION OF 'GROVE'

The MSA interim definition of 'grove' has no scientific basis, despite the Memorandum of Understanding (MOU) in the Giant Sequoia Ecology Cooperative and Sierra Nevada Ecosystem Project (SNEP) recommendations. This definition was a minimum interim grove definition

created around a negotiation table with the timber industry and with no scientific criteria other than marching 500 feet from the nearest Sequoia and planting a post. Their decision to write their own definition of "grove areas of ecological influence" instead of redefining 'grove' to encompass a larger area is giving them a 'built in' excuse to have two different management regimes in the two different 'zones'.

The forest within so-called groves and without should not be managed differently. The entire Monument is a forest ecosystem, which should be managed as nature intended: it is all the southern Sierra, and natural processes don't stop at the edges of groves or their artificially mapped boundaries.

DROUGHT + HUMAN WATER USES STRESS SEQUOIAS: MORE PROTECTION NEEDED, NOT LESS

The giant sequoias, which are the most massive living creatures in the world and occur nowhere else on Earth, cannot be preserved for future generations without protecting the broader ecosystems on which they depend, which entails protecting a broad geographic area of forest beyond the individual giant sequoia trees and groves themselves. Indeed, the proclamation describes the giant sequoia groves as non-contiguous components of a spectrum of interconnected ecosystems.¹³ The proclamation reflects the recommendation of Secretary Glickman, who explicitly recognized that protecting the giant sequoias required protection for the surrounding sub-watersheds on which the trees depend: "Despite their tremendous size, Giant Sequoias are vulnerable...They are very much affected by what happens on the surrounding forest. Logging or nearby development can profoundly affect water quality in the groves and threaten the long-term survival of these rare trees."¹⁴ Though immense in stature, giant sequoias have a shallow and vulnerable root system. Due to the lack of a deep tap root, giant sequoias require a reliable source of subsurface water year-round. In a region with little summer rainfall, changes in water availability caused by logging or other activity outside the groves, *but within their watersheds*,¹⁵ can threaten the survival of these trees by reducing or diverting the groundwater upon which they rely. Additionally, the successful germination and survival of seedlings to eventually replace the aging stand of ancient trees, and thereby sustain the groves into the future, depends on environmental conditions both within and outside of the groves themselves, such as alteration of the natural fire regimen resulting from fire suppression activities that originate outside the groves themselves and the movement of air pollutants from the Central Valley that concentrate along the western slopes of the Sierra Nevada.

¹³ See *Tulare County v. Bush*, 306 F.3d at 1142 (D.C. Cir. 2002) (characterizing the proclamation); 65 Fed. Reg. at 24,097.

¹⁴ USDA Press Release No.0111.00 http://vault.sierraclub.org/ca/sequoia/Monument/glickman_release_4-7-00.txt; Battle lines drawn over Sequoia monument (April 12, 2000) <http://us.cnn.com/2000/NATURE/04/12/sequoia.monument.enn/>.

¹⁵ A watershed is the surface region where water from precipitation and surface water bodies infiltrates into the subsurface, replenishing the supply of groundwater on which trees and other organisms rely during dry periods with little or no precipitation.

In light of these, and other, concerns, environmental groups proposed the inclusion of a significantly larger area of federal lands within the monument—nearly 386,000 acres compared to the 328,315 acres ultimately included in the monument.¹⁶

Moreover, the reliance of the giant sequoias on the broader watershed for survival, and the importance of protecting that watershed, is an even more important factor now than at the time of the proclamation. Drought conditions caused and exacerbated by climate change are stressing giant sequoias to an unprecedented extent, and may require additional management to ensure the survival of both mature trees and the younger trees and seedlings that will ultimately succeed them and sustain the species.¹⁷

Given the ongoing drought that has so far killed 102 million trees in the southern Sierra Nevada, the protections for the groves could legitimately be expanded to entire watersheds. And the Forest Service should be required to analyze the water balance for the GSNM, considering all water in and water out of the watershed ecosystem, including water wells, water diversions, water withdrawals, and water development that might remove water from the trees and species that the agency is charged with protecting, including, but not limited to the giant sequoias.

We particularly applaud the Forest Service's recognition and declaration of the inherent connection between surface and groundwater resources in the U.S. Forest Service's proposed Groundwater Directive, published in the Federal Register on May 6, 2014 at 79 Fed. Reg. 25,815. <https://www.federalregister.gov/documents/2015/06/19/2015-15151/proposed-directive-on-groundwater-resource-management-forest-service-manual-2560>. These resources are often managed separately, creating a problematic dichotomy. Managing surface and groundwater resources as a unified whole is particularly important in National Forests, where the headwaters of many rivers are found. Declining groundwater levels on these lands would decimate their flows and their value to visitors, ecosystems, and downstream users. Including groundwater in planning efforts for National Forests will also benefit fishing and recreation on and around important rivers and springs throughout the country. Unfortunately, The US Forest Service withdrew a proposed directive on groundwater resource management on June 19, 2015.

¹⁶ See NRDC and Sequoia Task Force, Giant Sequoia National Monument Proposal (Feb. 16, 2000) *available at* <http://vault.sierraclub.org/ca/sequoia/Monument/Proposal.htm>.

¹⁷ See Vicky Hallet Drought is damaging California's giant sequoias, Washington Post (Dec. 9, 2016) https://www.washingtonpost.com/national/health-science/drought-is-damaging-californias-giant-sequoias/2016/12/09/96cee950-bbd0-11e6-ac85-094a21c44abc_story.html?utm_term=.86feb1cb8ca1; Thayer Walker, Are Giant Sequoia Trees Succumbing to Drought? Scientific American (Dec. 29, 2016) <https://www.scientificamerican.com/article/are-giant-sequoia-trees-succumbing-to-drought> (discussing "signs of stress" induced by drought and on-going research to understand how the sequoias are faring and what might be done to protect them); Rachel Crowell, Yosemite Valley, Climate Change Threatens Giant Sequoias, Tiny Animals (Mar. 27, 2017) <http://www.rewire.org/pbs/pbs-nature-yosemite-valley/> (quoting expert Dr. Anthony Ambrose that giant sequoias "are definitely at stress levels greater than we've ever measured...before" due to drought).

Forest managers allow human water use development without knowing the water balance. Wells in the WUI cause a “cone of depression” in the aquifer, an actual depression of the water level around the well that could stress the trees that Forest Service is charged with protecting.

CALIFORNIA LEGISLATURE RESOLVE TO PROTECT CALIFORNIA MONUMENTS

On 13 June 2017, Assembly Joint Resolution No. 15 Filed with Secretary of State Relative to federal public lands that declares that the California Assembly supports protecting California Public lands.

This measure would urge the President of the United States, the Secretary of the United States Department of the Interior, and the Secretary of the United States Department of Agriculture to protect federal public lands and the economic, historical, cultural, and ecological values that they provide for Americans; to support the enactment and use of the Antiquities Act of 1906 as a critical tool for protecting the public good by authorizing the designation of national monuments under the Antiquities Act; and to honor and protect the integrity of all national monuments as they have been designated by Presidents of the United States since 1906.

http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201720180AJR15

LAW PROFESSORS AND REVIEWS INDICATE LACK OF THE PRESIDENT’S AUTHORITY

Here is the link to a law review article indicate that the President doesn’t have the legal authority to abolish or diminish monuments.

<http://www.virginialawreview.org/volumes/content/presidents-lack-authority-abolish-or-diminish-national-monuments>

And here is the link to the letter from 121 professors.

http://legal-planet.org/wp-content/uploads/2017/07/national-monuments-comment-letter-from-law-professors_as-filed.pdf

The history of how monuments were designated:

<http://legal-planet.org/2017/05/08/politicians-and-commentators-who-criticize-recent-national-monuments-are-making-up-their-own-version-of-history/>

Here is an op-ed with a less legalistic case for the lack of the president’s authority.

<http://theconversation.com/national-monuments-presidents-can-create-them-but-only-congress-can-undo-them-76774>

FIRE SAFETY IS A FALSE ISSUE TO SHRINK GIANT SEQUOIA NATIONAL MONUMENT

On 27 June 2017, Tom Kuekes, Retired U.S. Forest Service District Ranger, who once worked on the district that includes a portion of the Giant Sequoia National Monument, testified before the Kern County Board of Supervisors about the Giant Sequoia National Monument review. On 6 July 2017, an Op-Ed was published by Mr Kuekes in the San Francisco Chronicle, stating,

“fire safety is a false issue. The conditions mentioned in Kern County’s proposed letter to the secretary of interior — dead and dying trees from many years of drought — describe just about every forested area in the Sierra and Southern California. The U.S. Forest Service carefully considered wildfire in its 2012 management plan for the monument. If anything, monument designation gives the Sequoia National Forest improved standing to secure funding for projects to reduce fire danger.

Instead of attacking the monument, local governments should support community efforts such as fire-safe councils. Our federal government should fund fuel-management activities. That is how lives and property can be saved.”

<http://www.sfchronicle.com/opinion/openforum/article/There-s-no-support-to-shrink-Giant-Sequoia-11270838.php?cmpid=gsa-sfgate-result>.

Fire does not destroy wildlife habitat, logging does. Recently, more than 250 scientists informed Congress that patches of mostly dead trees are “quite simply some of the best wildlife habitat in forests.” http://www.californiachaparral.com/images/Scientist_Letter_Postfire_2013.pdf

Science “found no evidence that pre-fire tree mortality influenced fire severity”.

http://www.academia.edu/download/40465528/Bond_et_al.pdf

Science indicates no difference between observed area and expected area burned in red-stage or subsequent gray-stage stands during three peak years of wildfire activity, which account for 46% of area burned during the 2002–2013 period.

<http://www.pnas.org/content/112/14/4375.short>

Science indicates that insects generally reduce the severity of subsequent wildfires.

<http://iopscience.iop.org/article/10.1088/1748-9326/11/4/045008/meta>

Forest managers wrongly assert that it has “protected” forests by logging the largest trees and removing canopy cover, which makes forests hotter and dryer, more susceptible to surface winds, and causes more flammable bushes to grow where the trees once stood, all of which increase fire danger. (See Fire Weather: A Guide for Application of Meteorological Information to Forest Fire Control Operations Mark J. Schroeder Charles C. Buck USDA Agriculture - U.S. Government Printing Office : 0-244 :923, first printed in May 1970 - Reviewed and approved for reprinting August 1977 - Stock No. 001-000-0193-0 / Catalog No. A 1.76:360)

<http://digitalcommons.usu.edu/cgi/viewcontent.cgi?article=1013&context=barkbeetles>

The Forest Service’s Wildland Urban Intermix (WUI) definition for protection of structures ignores the science-based “Home Ignition Zone” fire science research of Jack Cohen, fire scientist at the Fire Sciences Laboratory in the Forest Service's Rocky Mountain Research Station, which indicates that treating the home and the 200 feet immediately surrounding the structure (the home ignition zone) can protect the structure from wildfire. (Reducing the wildland fire threat to homes: Where and how much? Author: Cohen, Jack D. 1999

<http://www.treesearch.fs.fed.us/pubs/5603>). Thinning farther from the structure than 200 to 300 feet causes unnecessary resource damage and can actually increase fire danger. We

recommend prescribed fire to reduce understory fuels beyond 200 feet from structures. See

the CBS news article on the Erskine Fire in the Kern River Valley, California, which featured an interview with Jack Cohen. <http://www.cbsnews.com/videos/in-the-path-of-fire/>

EFFECTS FROM AGGRESSIVE COMMERCIAL LOGGING ENDANGERS RIVERS AND RESIDENTS

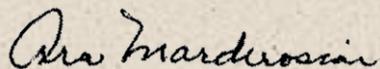
The 1966 Kern River Valley floods that destroyed the Kernville Bridge were not just caused by an El Niño rain event which melted a large snow pack but by a log jam of clear-cut forests on the Kern Plateau in Sequoia National Forest. No such flood damage has occurred since, even though we have had as severe El Niño and “Pineapple Express” events that could have done as much damage. The difference has been no log jams of felled clear-cut trees creating more catastrophes.

Aggressive logging endangers rivers and residents. In the mid-20th century, a logging boom swept across California’s North Coast. The region’s legendary timber stands went south to frame the suburban housing tracts of the San Francisco Bay Area and the Los Angeles Basin. When clear-cutting occurs on a large scale, flooding and landslides occur after the forest is denuded. Logging roads tend to be a main source of soil erosion and landslides occur in disturbed forests, and they also alter runoff patterns and disrupt subsurface water flows.

In addition to causing flooding and reducing stream flow, sediment smothers the eggs and disrupts the reproductive cycles of fish, especially salmonids, which require pools where they can rest and feed. Erosion fills in those crucial pools, while removal of canopy can raise stream temperatures to inhospitable levels. <http://pacificsun.com/feature-downstream/>

On March 25, 2014, clear-cut logging project on the now-barren hillside about a mile above an Oso, Washington residence caused a landslide that destroyed homes and property and killed residents. <http://komonews.com/news/local/proposed-50-million-settlement-reached-in-oso-landslide-suit> Survivors and family members of people killed in the nation's deadliest landslide have reached \$60 million in settlements with the state of Washington and a timber company that logged an area above the site of the collapse.

Respectfully submitted,



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Attachments:

Map of Sequoia Groves as currently defined.pdf

CA Attorney General to Hon. Ryan Zinke 6-8-17 (1).pdf