

Executive Power in Unlikely Places: The Presidency and America's Public Lands

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Executive Power in Unlikely Places: The Presidency and America's Public Lands

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Executive Power in Unlikely Places: The Presidency and America's Public Lands

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By examining the interactions between the presidency and the other branches of government, research illuminates the causes and mechanisms by which the presidency, and its power, ebbs and flows. Due to the nature of the powers directly granted to the president within the Constitution, much consideration has been given to presidential power through the prisms of national security, international affairs, and times of national emergency. Yet the presidency consists of more than the roles of commander- and diplomat-in-chief. By looking beyond the more obvious considerations of presidential power, the complexity of the institution's development is not only revealed, but more fully explained.

Consequently, this dissertation analyzes the development of presidential power by looking at the less obvious. It considers the use of formal executive tools to implement congressionally delegated and supported authority in an area of domestic policy: the creation of federally protected public lands. Instead of seeking to understand how the use of presidential power impacted an area of public policy, this research flips that perennial question on its head by asking: how has public land policy contributed to the development of presidential power? The research presented here shows, through the analysis of five public land categories, that the consistent application of executive power within this policy realm, combined with Congressional acceptance of this application, enhanced the overall power of the American presidency.

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CHAPTER I: INTRODUCTION

The framers of the American Constitution sought to create a balanced government, with power split between three different branches in order to protect against any one institution acquiring the majority of power. As the framers' vision played out in reality however, the power balance between the political institutions shifted and changed. The original designations of authority within the Constitution aided in these shifts, as discretion and ambiguity within the document's provisions provided opportunities for power struggles between the branches. Consequently, academic research that identifies and analyzes critical power shifts can deepen our understanding of American political institutions. This dissertation aims to do just that for one institution in particular: the American presidency.

By examining the interactions between the presidency and the other branches, research illuminates the causes and mechanisms by which the presidency, and its power, ebbs and flows. Due to the nature of the powers directly granted to the president within the Constitution, much consideration has been given to presidential power through the prisms of national security, international affairs, and times of national emergency. Yet the presidency consists of more than the roles of commander- and diplomat-in-chief. By looking beyond the more obvious considerations of presidential power, the complexity of the institution's development is not only revealed, but more fully explained.

Consequently, this dissertation analyzes the development of presidential power by looking at the less obvious. It considers the use of formal executive tools to implement congressionally delegated and supported authority in an area of domestic policy: the creation of federally protected public lands. Instead of seeking to understand how the use of presidential powers impacted an area of public policy, this research flips that perennial

question on its head by asking: how has public land policy contributed to the development of presidential power? The following chapters show that the consistent use of executive power within this policy realm, combined with Congressional acceptance of this use, enhanced the overall power of the American presidency.

The story of public land policy sheds light on presidential power development in three important ways. First, the major grants of authority to the presidency in public lands occurred during years often associated with a weak presidency and a strong Congress in terms of institutional powers. Second, the types of presidential power considered here are formal executive tools, rather than personal or political influence wielded by the officeholders, a prevailing perspective in the examination of the presidency. Third, federal public land policy is domestic in nature, and therefore distinctive from the traditional and dominant considerations of presidential power in the foreign or national security policy realms. As a result of this different perspective, this research contributes to the understanding of presidential power in a significant manner.

The following pages help to establish the significance of this research through reviews of pertinent literature, concept development, methodological processes, and chapter content.

Literature Framework

The research presented within this dissertation contributes primarily to three areas of inquiry within political science: presidential power, environmental policy, and institutional power dynamics. As briefly covered above, the less obvious nature and unique perspective of the research question presented here addresses a number of gaps or

weaknesses within political science literature. By reviewing pertinent research within the field, the contributions of this study become clear.

Presidential Power

First and foremost, my research seeks to understand and further explain the progression of American presidential power. The examination of executive power within the political science field began in earnest in 1960 with Richard E. Neustadt's famous work, *Presidential Power and the Modern Presidents*. Serving as the standard bearer for modern presidential research, this book set the research agenda of presidential power for decades. Arguing that presidential power essentially boils down to the ability of the president to persuade, many scholars used, and continue to use, this framework as the foundation from which to assess the impact and role of the presidency.¹ However, in more recent years, a new appreciation emerged for examining the presidency through the office's formal and unilateral powers, in many ways as a reaction to the prominence of Neustadt's informal influence argument.

The emergence of formal power research allows the subfield of the American presidency to more fully appreciate the avenues of power available to presidents. As stated by William G. Howell, a formative scholar in the formal power approach to the presidency, the field tended to focus primarily "...on the persuasive, and mostly personal, powers of the presidents..." while Howell sought instead to understand the "...president's power of direct action..." Howell co-wrote the foundational articles on formal presidential power as a separate and needed consideration within the American

¹ Thomas E. Cronin, "Presidential Power Revised and Reappraised," *The Western Political Quarterly*, 32, 4 (Dec. 1979): 381-395, Matthew J. Dickinson, "We All Want a Revolution: Neustadt, New Institutionalism, and the Future of Presidency Research," *Presidential Studies Quarterly*, 39, 4 (December 2009): 736-770, Erwin C. Hargrove, "Presidential Power and Political Science," *Presidential Studies Quarterly*, 31, 2 (June 2001): 245-261, and Richard E. Neustadt, *Presidential Power and the Modern Presidents*, (New York: The Free Press, 1990).

presidency literature with Terry M. Moe in 1999. Their selections, “The Presidential Power of Unilateral Action” and “Unilateral Action and Presidential Power: A Theory,” defined formal powers of the office, the tools used to implement those powers, and their role in the field’s understanding of presidential authority. They argued:

“...the president’s powers of unilateral action are a force in American politics precisely because they are not specified in the formal structure of government...this important aspect of presidential power derives its strength and resilience from the ambiguity of the formal structure. We also argue that presidents have strong incentives to push this ambiguity relentlessly—yet strategically and with moderation—to expand their own powers and that, for reasons rooted in the nature of their institutions, neither Congress nor the courts are likely to stop them. The result is a slow but steady shift of the institutional balance of power over time in favor of presidents.”²

Howell and Moe’s work contributed to and inspired a new focus on formal powers within the American presidency subfield, in addition to the eventual acceptance of their theory, commonly known as the unilateral action theory.³

Prominent political scientists joined Howell and Moe with their own contributions to the understanding of formal authorities in the development of presidential power, forming a new crucial subsection of presidential research.⁴ Many of the studies examining unilateral action focus upon the exercise of tools to impact policy and their role in the development of the presidency. A wide variety of tools exist for the president,

² Terry M. Moe and William G. Howell. “The Presidential Power of Unilateral Action,” *The Journal of Law, Economics, & Organization*, 15,1 (1999): 132-179, Terry Moe and William G. Howell, “Unilateral Action and Presidential Power: A Theory,” *Presidential Studies Quarterly*, 29,4 (1999): 850-872, quotation on pg. 852.

³ Note that the unilateral action theory is different from the unitary executive theory put forth by John Yoo in his book, *The Powers of War and Peace: The Constitution and Foreign Affairs after 9/11*. (Chicago, University of Chicago Press, 2005).

⁴ Formative literature on unilateral action includes Phillip J. Cooper, *By Order of the President: The Use & Abuse of Executive Direct Action*, (Lawrence: University Press of Kansas, 2002), *Executing the Constitution: Putting the President Back into the Constitution*, ed. Christopher S. Kelley, (Albany: State University of New York Press, 2006), William G. Howell, *Power Without Persuasion*, (Princeton, N.J.: Princeton University Press, 2003), Howell with David Milton Brett, *Thinking about the Presidency The Primacy of Power*, (Princeton: Princeton University Press, 2013), and Kenneth Mayer, *With the Stroke of a Pen*, (Princeton: Princeton University Press, 2001).

including but not limited to, executive orders, presidential proclamations, executive directives, signing statements, presidential memoranda, and executive appointments.⁵

Due in part to the more recent development of this area of presidential study, much of the work on unilateral action seeks to compile and explain the general patterns of presidential application of these tools. The literature on executive orders is the most extensive, with research showing when presidents are most likely to use orders, how often they have used orders, if the practice differs between unified and divided government, the policy arenas most often affected by executive orders, and the patterns of “significant” executive orders within administrations and over time. Thanks to the foundation created by these works, a deeper understanding of unilateral action’s contribution to presidential power is now possible through the analysis of presidential action within different substantive policy areas and their development over time. Since my research examines the use of executive

⁵ For research more specifically on executive orders see, Kenneth R. Mayer, “Executive Orders and Presidential Power,” *The Journal of Politics*, 61,2 (1999): 445-466, Andrew Rudalevige, “The Contemporary Presidency Executive Orders and Presidential Unilateralism,” *Presidential Studies Quarterly*, 42, 1 (2012): 138-160, Rudalevige, “Executive Branch Management and Presidential Unilateralism: Centralization and the Issuance of Executive Orders,” *Congress & the Presidency*, 42, (2015): 342-365, and Adam L. Warber, *Executive Orders and the Modern Presidency: Legislating from the Oval Office*, (Boulder, CO: Lynne Rienner Publishers, 2006). For presidential proclamations see, Jeremy Bailey and Brandon Rottinghaus, “The Politics of Proclamations: Extending the Literature of the Unilateral Presidency,” Paper presented at the American Political Science Association Annual Conference, Washington, D.C. 2010, Rottinghaus and Jason Maier, “The Power of Decree: Presidential Use of Executive Proclamations, 1977–2005,” *Political Research Quarterly*, 60, 2 (2007): 338–43, and Rottinghaus and Adam L. Warber, “Unilateral Orders as Constituency Outreach: Executive Orders, Proclamations, and the Public Presidency,” *Presidential Studies Quarterly*, 45, 2 (Jun. 2015): 289-3009. For signing statements see, C.A. Bradley, and E.A. Posner, “Presidential Signing Statements and Executive Power,” *Constitutional Commentary*, 23 (2006): 307–64, Cooper, “George W. Bush, Edgar Allan Poe, and the Use and Abuse of Presidential Signing Statements,” *Presidential Studies Quarterly*, 35 (2005): 515–532 and Jeffrey Crouch, Mark J. Rozell, and Mitchell A. Sollenberger, “President Obama’s Signing Statements and the Expansion of Executive Power,” *Presidential Studies Quarterly*, 43, 4 (2013): 883-898. For presidential memoranda see, Kenneth S. Lowande, “The Contemporary Presidency after the Orders: Presidential Memoranda and Unilateral Action,” *Presidential Studies Quarterly*, 44, 4 (Dec. 2014): 724-741. For appointments see, P.C. Corley, “Avoiding Advice and Consent: Recess Appointments and Presidential Power,” *Presidential Studies Quarterly*, 36 (2006): 670–80 and D.E. Lewis, “Staffing Alone: Unilateral Action and the Politicization of the Executive Office of the President, 1988–2004,” *Presidential Studies Quarterly*, 35 (2005): 496–514. Additional sources on the formal powers of the presidency can be found in the Bibliography.

orders, presidential proclamations, and administrative orders in a specific area of domestic policy, it takes unilateral action research a step further.

While I did not set out to test the unilateral action theory, my work confirms the argument that presidential use of unilateral tools can, and has, contributed significantly to the office of the presidency. The culmination of the presidential actions compiled in this research proves this significance. The story presented here also provides examples of ambiguity in presidential authority, the manner in which presidents manipulate that ambiguity, and the shifts of power that occur between the legislative and executive branches as a result.

Nonetheless my research goes beyond this support and offers additional insight to the examination of unilateral action and its theoretical development. Unilateral action theory tends to place more emphasis on the use of formal powers by the president *to initiate or begin action within a policy arena*, often in response to an inactive or unwilling Congress. According to the theory, one of the principal reasons presidents use unilateral action is the “...crucial advantage of being able to make the first move. In doing so the president alters policy, and if either Congress or the judiciary objects, they must take affirmative action to undo what the president has just done.”⁶ Hoping to instigate Congressional action, the president employs inherent or prerogative powers.

What is different about the majority of the cases presented in the following pages is that Congress itself initiates action by delegating a particular power to the president *before* the president takes action in a given public lands category. This *delegated* unilateral action is included in the unilateral action theory, but tends to take a backseat to the more interesting cases of *initiative* unilateral action. Thus my research pushes the

⁶ Mayer, “Going Alone: The Presidential Power of Unilateral Action,” 8.

inquiry further by asking, what happens when a unilateral power is initially granted by Congress to the presidency? How does this impact the development of presidential power and the continued use of a particular unilateral tool? And even if presidential action initiates a policy (as is the case for national wildlife refuges in Chapter III), what happens when Congress not only allows the presidential initiative, but emulates it? By examining unilateral action from this perspective, my research furthers the understanding of formal power application in the overall development of executive authority.

Environmental Policy

The nexus of presidential power and environmental policy is, for the most part, an underappreciated subject matter within the field of political science. These areas of inquiry serve as independent subjects in numerous selections, but they have not often been assessed together.

An important reason behind this gap in knowledge may be that presidency literature tends to focus upon foreign rather than domestic areas of policy; a significant point for the research presented here. The foreign and national security emphasis of the executive literature derives from the nature of the office: generally speaking, the presidency received more authority within these policy realms in the Constitution and thus holds more sway, and interest, for scholars of the institution. As a consequence, studies of the presidency and domestic policy have generally been less common.⁷ Thus analysis of the presidency and the environment falls on the less popular side of this traditional research divide.

⁷ Meena Bose, "The Presidency and Foreign Policy," in *New Directions in the American Presidency*, Ed. Lori Cox Han, (New York: Routledge, 2011): 180-183, Mark Byrnes, "The Presidency and Domestic Policy," *OAH Magazine of History*, 11, 4 (Summer 1997): 21-22, and Lee H. Hamilton, "The Making of U.S. Foreign Policy: The Roles of the President and Congress over Four Decades," in *Rivals for Power: Presidential-Congressional Relations*, Ed. James A. Thurber, (New York: Rowman & Littlefield Publishers, Inc., 2002):207-209.

However, research at the nexus of the presidency and environmental policy does exist, and a few notable exceptions shed light on the need for a more comprehensive understanding of the interplay between the two. Dennis L. Soden's *The Environmental Presidency* serves as the first major work of political science to systematically study the presidency's impact on the environment in America. Soden and his colleagues analyze the office's contribution to environmental policy through the lens of each of the president's functions, ranging from the role of administrator to that of commander-in-chief.⁸ This collection provides a useful overview for understanding the presidency's impact on the environmental realm, but only touches the surface of the numerous topics available for study.

Two more recent works from 2010 and 2014, *White House Politics and the Environment: FDR to G.W. Bush*, and *Presidential Administration and the Environment: Executive Leadership in the Age of Gridlock*, examine how the presidency either hindered or helped in advancing environmental issues, and how recent presidents (primarily the three most recent) applied the tools of the administrative presidency to impact environmental policy in multiple realms, from public land management to water protection to climate change.⁹ *Painting the White House Green* and *Presidential Influence and Environmental Policy* also seek to understand how the presidency and executive branch influenced environmental policy at a broader level, with the first looking at the economic considerations of environmental policymaking, and the second

⁸ Dennis L. Soden, "Presidential Role and Environmental Policy," in *The Environmental Presidency*, Ed. Dennis L. Soden, (Albany, NY: State University of New York Press, 1999) and Glen Sussman and Byron W. Daynes. "Spanning the Century: Theodore Roosevelt, Franklin Roosevelt, Richard Nixon, Bill Clinton, and the Environment," *White House Studies*, 4, 3 (2004): 338-339.

⁹ Byron W. Daynes and Glen Sussman, *White House Politics and the Environment: Franklin D. Roosevelt to George W. Bush*, (Texas A&M University Press, 2010) and David M. Shafie, *Presidential Administration and the Environment Executive Leadership in the Age of Gridlock*, (New York: Routledge, 2013).

offering an analysis of the administrative presidency's part in this realm.¹⁰ All of these works lay the foundation for a more general understanding of the presidency's role in environmental politics and policy; much needed assessments in a less-of-studied area of research. As a consequence, the authors are unable to delve deeply into any one aspect of environmental policy. Additionally, they tend to focus only on the role of the presidency in the modern era, and thus ignore or barely touch upon the precedents formed during the earlier periods of the presidency.

Other presidency-based environmental literature tends to look at specific presidents and their individual impact on policy. One of the broadest and newest efforts in this endeavor is a work of history, Graham Otis' *Presidents and the American Environment*. Otis attempts to cover the major policy efforts of presidents from Benjamin Harrison to Barack Obama, giving consideration to earlier presidencies that many other studies ignore.¹¹ However Otis sacrifices depth for breadth, as the ambitious goal of the book demands a lack of detail and analysis in many cases. Other works focusing on individual instances of presidential impact include Robert Durant's *The Administrative Presidency Revisited: Public Lands, the BLM, and the Reagan Revolution* an analysis focused primarily on the administrative presidency, but using the environmental agenda of the Reagan administration as its case study, and historian J. Brooks Flippen's *Nixon and the Environment*, which explains Nixon's environmental protection efforts as opportunistic political actions. Douglas Brinkley's *The Wilderness Warrior*, an extensive history of Theodore Roosevelt's life in regards to conservation and nature, served as an

¹⁰ *Painting the White House Green*, Eds. Randall Lutter and Jason F. Shogren, (Washington, D.C.: Resources for the Future, 2004) and Robert Shanley, *Presidential Influence and Environmental Policy*, (Westport, CT: Greenwood Press, 1992).

¹¹ Graham Otis, *Presidents and the American Environment*, (Lawrence, KS: University Press of Kansas, 2015).

important source for background information for this dissertation.¹² Each of these works contributes to the knowledge base for the role of the presidency in environmental policy, but is limited to the particular presidencies upon which they focus.

The three works of history covered above prove the multidisciplinary interest in relationship between the presidency and the environment. One additional selection from outside of political science must be mentioned as it helped to confirm my initial thinking whilst in the development phase of this research. Law Professor John D. Leshy's "Shaping the Modern West: the Role of the Executive Branch" provides a descriptive overview of the role of the executive (writ large) in land preservation within the context of President Clinton's then-recent actions on land preservation.¹³ The article serves as a solid, concise synopsis of the presidency's role in public lands, but does not go much beyond this. While my early research benefited from this article, it moves well beyond it, especially in the level of detail and analysis of executive authority and institutional power dynamics.

The research examining the intersection of the American presidency and environmental policy is still nascent in its development, especially in the field of political science. My research aims to add a new level of depth and understanding to the subject within the field by investigating a specific area of environmental policy over a broad period of time. It also applies a different perspective compared to most considerations of the presidency and public policy. This perspective moves beyond the traditional

¹² Robert F. Durant, *The Administrative Presidency Revisited Public Lands, the BLM, and the Reagan Revolution*, (Albany, NY: State University of New York Press, 1992) and J. Brooks Flippen, *Nixon and the Environment*, (Albuquerque, NM: University of New Mexico Press, 2012). Douglas Brinkley's *The Wilderness Warrior*, an extensive history of Theodore Roosevelt's life in regards to conservation and nature, served as an important source for background information for this research. Douglas Brinkley, *The Wilderness Warrior Theodore Roosevelt and the Crusade for America*, (New York: Harper, 2009).

¹³ Robert D. Leshy, "Shaping the Modern West: The Role of the Executive Branch," *Colorado Law Review*, 72, 2 (2001): 288-310.

approach of only evaluating the office's role in a particular policy area by striving to show how the presidency changed *because of its role in public land policy*. Examining the development of executive power in the formation of public lands illuminates the policy area's impact on the office in two ways. First, tracing the formation of the public land laws in the later 19th and early 20th centuries clarifies the manner in which these authorities developed and built upon one another as each established new precedents for executive power. Second, following the path of the different authorities' implementation, and the continued Congressional acceptance of that implementation, exemplifies the ways in which public land policy became a prevailing and unique source of power for the presidency.

Institutional Power Dynamics

When assessing presidential power, scholars inevitably consider its impact upon inter-branch relationships. Considering the fact that the framers of the Constitution specifically sought to balance authorities and responsibilities between the branches, looking at any one branch's authority requires at least an acknowledgement of another's. As the quintessential adage states, the three branches constitute a relationship of shared powers, and thus must work together in varying capacities to implement those authorities. Accordingly, even though this dissertation focuses primarily upon the development of presidential power, Congressional authority plays a crucial role. Consequently, my research adds to the political science literature which seeks to understand the interplay of power between the presidency and Congress.

The works examining the power dynamics between the presidency and Congress are numerous and varied. Many of the selections tend to concentrate on the general shifts

of authority between the two institutions, seeking to understand how this struggle created the methods and types of policymaking seen today. The research often seeks to understand if the presidency and Congress developed in the manner originally envisioned, or believed to be originally envisioned, by the framers of the Constitution. Of particular interest to my research are the selections that investigate power shifts between the presidency and Congress in terms of specific policy areas. These pieces often center upon the realms of war-making, foreign policy, and budgeting responsibilities for the federal government. The dominance of these three policy areas in this literature subsection is natural, as they highlight the policy areas in which there is, often purposely, friction between the executive and legislative branches. The framers separated war-making authority between the two branches in order to make it more difficult to initiate military efforts. The presidency received the majority of its powers in the foreign policy realm, thus encouraging Congress to make sure it did not overstep its boundaries. And preparing a federal budget became part and parcel of the presidency with the passage of the Budget and Accounting Act of 1921, even though the “power of the purse” remained with Congress.¹⁴

Scholarship investigating the power dynamics between the presidency and Congress traces the lines of shared authority as they began within the Constitution and developed in practice over time. The literature seeks to explain the variability of power and the pivotal areas of contention between the two institutions. As a consequence,

¹⁴ Examples of this scholarship include, Louis Fisher, *Congressional Abdication on War and Spending*, (College Station, TX: Texas A&M Press, 2000), Louis Fisher, *Constitutional Conflicts between the Congress and the President*, (Lawrence, KS: University Press of Kansas, 2007), John L. Fitzgerald, *Congress and the Separation of Powers*, (New York: Praeger, 1986), Michael Foley and John E. Owens, *Congress and the Presidency Institutional Politics in a Separated System*, (New York: Manchester University Press, 1996), David Shafie, “The Presidency and Domestic Policy,” in *New Directions in the American Presidency*, Ed. Lori Cox Han, (New York: Routledge, 2011): 169-170.

research considering the role of power between the presidency and Congress in specific policy areas adds a new level of analysis to this subfield, especially when examining policy areas not normally seen as important or contentious to the two institutions, like federally protected public land establishment. My research therefore contributes to this literature by highlighting a unique power dynamic between the presidency and Congress within a distinctly domestic policy arena.

Methodology and Analytical Tool Development

The following briefly describes the general methodological approaches applied in this research, the definition of Congressional acceptance, an analytical tool developed for cross-case comparison, and the reasoning behind the specific public land category selection. Additional detailed information on data compilation can be found in Appendix I: Additional Methodology.

General Methodological Approach

This dissertation traces the development of presidential power in relation to public land policy over time. Since no other comprehensive effort of this kind exists within the field of political science, the majority of the research is primary in nature through the collection and analysis of newly compiled data from governmental and academic primary and secondary sources. The methodological approach applied to this research consequently includes both qualitative and quantitative analysis. The datasets of national forests, national wildlife refuges, national monuments, national parks, and national wilderness areas compiled by the author formed the foundation for this research.¹⁵ Each dataset includes the name, year, and establishment method of every unit ever created

¹⁵ A detailed description of the processes used to compile the datasets can be found in Appendix I: Additional Methodology.

within each of these federal land systems. Through the composition of these sets, patterns of executive, administrative, and Congressional establishment became clear. This temporal analytical process highlighted an important patterned development regarding the power to designate federal protected public lands: an increasingly dominant role for the presidency and the executive branch as compared to Congress and the legislative branch.

Based upon these patterns, I traced the historical and legislative development of public land establishment in relation to the presidency.¹⁶ Employing a process approach, each chapter provides a systematic descriptive account of the specific public land type through four lenses: 1.) the public land originating authority or law, 2.) significant examples and patterns of presidential application of the originating authority, 3.) Congressional responses or actions taken in response to this application, and 4.) instances of expansion of or limitation upon the particular executive power.¹⁷ Descriptive quantitative statistics of the patterns of establishment in each category, derived from the original datasets, round out the analysis in each case. Thus the main argument is supported by a balanced approach between qualitative and quantitative analysis of the newly accumulated data.

¹⁶ Due the nature of public land policy, the development of public land establishment also required a detailed examination of the role of Congress. The focus of the research however is on presidential, rather than Congressional, power.

¹⁷ On the use and importance of process analysis and systematic descriptive narrative in the study of the presidency and political science, see Karen M. Hult, Charles E. Walcott, and Thomas Weko, "Qualitative Research and the Study of the U.S. Presidency," *Congress & the Presidency*, 26, 2 (Fall 1999): 134-136, 140-142, Scott C. James, "Historical Institutionalism, Political Development, and the Presidency," in *The Oxford Handbook of the American Presidency*, eds. George C. Edwards III and William G. Howell, (New York, Oxford University Press, 2009): 72-76, Gary King, "The Methodology of Presidential Research," in *Researching the Presidency Vital Questions, New Approaches*, eds. George C. Edwards III, John H. Kessel, and Bert A. Rockman, (Pittsburgh: University of Pittsburgh Press, 1993):388-395, and Paul Pierson and Theda Skocpol, "Historical Institutionalism and Contemporary Political Science," in *Political Science: The State of the Discipline*, eds. Ira Katznelson and Helen V. Milner, (New York: W.W. Norton & Company, 2003): 698-699.

In addition, three general methodological points deserve mention. First, beyond the determination of the general patterned development mentioned above, the use of temporal analysis highlighted how the categories of public lands built upon one another to form an impressive precedent for the presidency to act and expand upon from the later 19th century to present day.¹⁸ By showing the chronological pattern of Congressional acceptance and presidential action, a clear picture of just how the presidency came to dominate public land creation forms. Second, the research also carefully inspects five different categories, or cases, of federal public lands.¹⁹ The narrow focus of the cases (public lands policy), allows for an in-depth consideration of an area of policy rarely associated with the presidency. But by including five categories of public lands, the research can assess and compare unique characteristics across the cases.²⁰

Third, due to the fact that this research specifically sought to understand the impact of public land policy on the development of presidential power, its conclusions are consequently limited to this particular area of policy. However, it is my utmost hope that future research will build upon this work by seeking to understand the role specific policy areas play in the development of presidential power, rather than looking purely at the impact of the presidency upon policy. The process of systematically identifying and analyzing patterns of presidential action and Congressional response, as completed in this study, will assist scholars in assessing the impact of policy areas upon the development

¹⁸ On the use of temporal analysis and patterned development see Daniel J. Galvin, "Qualitative Methods and American Political Development," in *The Oxford Handbook of American Political Development*, eds. Richard Valelly, Suzanne Mettler, and Robert Lieberman, (Oxford Books Online: Oxford University Press, 2014): 9-10, James 58-59 and Pierson and Skocpol 706-710.

¹⁹ See the section, "Public Land Category Selection" below for an explanation as to why the specific five categories were selected.

²⁰ On the use of small-N, within-, and across- case analysis, see Galvin 10-12 and Pierson and Skocpol 714-715.

executive power. Additionally, scholars can immediately apply Congressional acceptance, described in detail in the next section, as an analytical tool.

Analytical Tool Development: Congressional Acceptance Defined

In order to consistently trace presidential-Congressional power dynamics over time, I analyze the use of executive power and the “Congressional acceptance” of that use in each of the five major land categories covered. I developed four action types taken by Congress vis-à-vis presidential power in public lands to serve as mechanisms of Congressional acceptance in each case. I did this by tracing the manner in which Congress both initiated, and responded to, presidential action in the formation of federal public lands over time. From this process I noted common patterns of Congressional actions and formulated my types based upon this analysis. The four action types are: delegation, allowance, emulation, and limitation.

Delegation is defined as Congress granting specific powers to the president through formal statutes or laws. Allowance is expressed as a lack of Congressional action in response to executive use of power. Emulation is described as Congressional action that mirrors or replicates presidential action. Finally, limitation refers to Congressional attempts to restrict or remove presidential authority, whether or not the attempts are successful. In each and every case presented in this research, one or more Congressional acceptance mechanisms occur. Applying these action types allows for a clear and consistent comparison between the different cases and the ways in which each distinctly contributed to the development of presidential power.

Public Land Category Selection

My research examines the development of five particular federal land categories: national forests, national wildlife refuges, national monuments, national parks, and national wilderness areas. I chose these five particular categories as the basis of my analysis for four main reasons. One, numerous federal land categories exist under the purview of America's four major lands and environmental agencies: the National Forest Service, the U.S. Fish and Wildlife Service, the National Park Service, and the Bureau of Land Management. As a consequence, including every type of federal land category would be near to impossible, especially within the limits of a dissertation. Thus a particular selection of land categories proved essential to the project. Two, the five categories selected represent the majority of federally reserved lands.²¹ While many other types of federal preserves exist, they are for the most part smaller, less commonly used, focused on different purposes, or even subsets of one of these five major types. The five categories chosen consequently allow for a comprehensive overview of the federal public lands system within a manageable number of cases.

Three, the five categories primarily focus upon the *withdrawal and preservation of public land*; that is land already in the possession of the federal government. The laws

²¹ Using the most recent land reports from the four major land agencies and the National Wilderness Preservation System, the United States has approximately 556,916,085 acres of reserved land as of September 30, 2015. This figure does not include the 418,328,265 acres of submerged lands in marine national monuments. The five public land categories selected currently cover approximately 504,440,561 acres, or 91% of current federally reserved lands. *Land Areas of the National Forest System*, U.S. Department of Agriculture, U.S. Forest Service, (Washington, D.C.: USDA Forest Service, November 2015): 1, *Park Acreage Report, Summary Acreage 2015*, U.S. Department of the Interior, National Park Service Land Resources National Program Center, (Washington, D.C.: National Park Service, 2015): 1, *Public Land Statistics 2015*. U.S. Department of the Interior, Bureau of Land Management, (Washington, D.C.: Bureau of Land Management, May 2016): 195-197, *U.S. Fish and Wildlife Service Annual Report of Lands, Statistical Data Tables, As of September 30, 2015*, U.S. Fish and Wildlife Service (Washington, D.C.: Fish and Wildlife Service, 2015): 1, 54-55, and *Wilderness Data*, College of Forestry and Conservation Wilderness Institute of the University of Montana, Arthur Carhart National Wilderness Training Center, and the Aldo Leopold Wilderness Research Institute, (Available: www.wilderness.net).

or executive tools creating these types of federally protected lands center upon the withdrawal of land from the public domain in order to preserve its natural, scientific, and/or historical value. The language used within these kinds of statutes and orders focus upon the *specific removal of certain tracts of land from development*, and thus can be distinguished from other preservation categories such as historical sites, which tend to preserve specific buildings or other structures.²² Four, the five categories represent both presidentially- and Congressionally-established public lands. National forests, national wildlife refuges, and national monuments all fall under the purview of the executive.²³ National parks and national wilderness areas can only be created by an act of Congress, and thus preclude executive involvement. I specifically included parks and wilderness areas in order to test and strengthen my overall argument of presidential dominance in the establishment of America's public lands. By incorporating these hard cases, I sought to prevent any obvious bias resulting from the examination of only those lands formed by the executive. Additionally, the inclusion of these two types of public lands broadened the reach of my research in terms of covering a majority of federally protected lands.

Chapter Overview

The following chapters trace the contribution of public land policy to the development of presidential power. Three critical characteristics determined the order and organization of the chapters: 1.) public lands category, 2.) chronological initiation of the public land type, and 3.) presidential versus Congressional establishment. Firstly, in

²² It is important to note that this is generally the case. Some national monuments, for example, focus upon the preservation of a particular ruin or object. Yet the language within the establishing authorities still tends to specify the lands needed for the protection of said ruin or object. Also, it is important to note that in some cases executive and legislative action would later allow for the purchase or donation of private land, especially in the Eastern portion of the country, by and to the federal government so that it could be preserved as much of the federally owned land was in the West.

²³ Congress is still able to establish each of these types of federal lands as well, but either delegated or supported the power to do so to the presidency.

order to see how each category of federal land is both distinct and interconnected with the others, each chapter follows the progression of discrete categories of public lands: national forests, national wildlife refuges, national monuments, and national parks and national wilderness areas (combined in Chapter V).

Secondly, the first three chapters on forests, wildlife refuges, and monuments fall into a chronological order based upon the year each of these types of lands came into existence in the United States. Forests started in 1891, refuges in 1903, and monuments in 1906. While the chapters begin in chronological order, each traces the full development of the corresponding category through to present day. Presenting the chapters in this pseudo-chronological manner more clearly highlights the progression of the precedents each new category created for presidential power over time. Thirdly, the chapters include examples of public lands that are primarily presidential or Congressional in terms of their methods of establishment for ease of comparison. The president predominantly creates national forests, wildlife refuges, and monuments through congressionally delegated or accepted authorities. On the other hand, only Congress can legally form national parks and national wilderness areas. Additionally, the connection between the presidency and these congressionally-established categories could not be explained without first understanding the role of the presidency in the forests, refuges, and monuments. The following provides a brief outline for each chapter.

Chapter II begins the story of presidential power and public lands policy. First, covering the national forests, the chapter starts by describing the origination of American federal land preservation for the conservation and preservation of timber in America. Second, it traces the path of demand for action from interested groups and eventually the

American public, as the industrial evolution of the country decimated the nation's forested lands and fears of timber famines took hold in the public conscience. Third, the chapter follows the continued inaction of Congress on the issue, with a number of failed legislative attempts to create reserves out of federal western lands. Fourth, an examination of unusual events explains how efforts finally result in the passage of the Forest Reserve Act of 1891, which delegates the authority to create forest reserves to the president. Fifth, an account of the executive application of the Forest Reserve Act with the support of internal and external forces and the resulting Congressional responses underlines the importance of this first case to executive power development. Finally, the chapter's conclusion assesses the precedent created by the 1891 act and considers the impact of this precedent on the presidency's role in subsequent federal land preservation.

Chapter III assesses the presidency's role in the development of the National Wildlife Refuge System. Unlike the national forests in Chapter II, the national wildlife refuges did not come into existence from an act of Congress. Instead, this chapter examines the unique role of executive initiative in the case of refuges, and the Congressional acceptance that followed. First, the chapter begins by explaining how the idea of federally protected lands for wildlife emerged from concerned groups, and how the actors involved in this development brought their case to the president. Second, the chapter traces the development of refuge creation from the first declaration of a wildlife refuge in 1903 by Theodore Roosevelt to present day in order to show the dominant leadership of the presidency in the formation of America's wildlife refuges. Third, an examination of the major laws related to wildlife and environmental protection from the 1920s through present day shows the manner in which Congress continued to grant ever

more power to the executive, writ large, in this policy realm. Finally, the chapter concludes with an analysis of the combined effect of presidential initiative and Congressional acceptance of that initiative upon the system of national wildlife refuges: the ultimate institutionalization of wildlife refuge establishment.

Chapter IV investigates the impact of the Antiquities Act of 1906 which granted the president the authority to create national monuments through unilateral action. First, the chapter begins with a historical overview of the ever increasing national interest in American prehistory beginning in the late 19th century, inspiring the creation of related professional and political associations. From this interest grew a demand for legislation allowing for the protection of American antiquities which formed the impetus for the 1906 act. Second, the prominent role of the presidency and the discretion given to the office within the act is explained through a careful examination of the law's legislative development. Third, the chapter traces the usage of the Antiquities Act from 1906 to present day in order to show how the actions of early presidents created precedents for later monument designations and expansions of the act's authority. Fourth, the chapter then covers Congressional responses to the continued use of the authority over the years, highlighting those instances in which Congress challenged or limited the presidency's ability to implement the act. Finally, the chapter's conclusion evaluates how Congress accepted, and continues to accept, the presidential power to form national monuments.

Chapter V builds upon the first three major chapters by showing how the dominance of the presidency in those three land categories enabled an indirect but critical role for the office in two Congressionally-formed federal land types: national parks and national wilderness areas. The first half of the chapter evaluates the part played by the

presidency in national parks by analyzing the development of the first national parks, the eventual creation of a national park system, and the function of national monuments as conduits of influence for the presidency. The second half of the chapter illustrates the role of the presidency in national wilderness areas by scrutinizing the leadership of the executive branch in developing the wilderness idea at the federal level, the legislative development of the Wilderness Act of 1964, and the impact of the presidency on the overall wilderness system. The chapter concludes with an analysis of one, the presidency's significance in the development of national parks and wilderness areas, two, the power relationship between the presidency and Congress through the applicability of the Congressional acceptance categories, and three, how these cases add depth to the presidential power argument made within this research.

Chapter VI, the conclusion, brings the story of presidential power and public lands policy full circle. A brief review of the five cases of public lands illustrates the way in which each built upon the other, creating precedents and opportunities for the use and expansion of presidential power in this policy realm. Stemming from this review, the identification of important impetuses behind presidential implementation of authority and Congressional acceptance of that authority highlight significant sub-patterns seen in the five cases of public lands. A calculation of the presidency's creation of federal public land entities succinctly highlights the dominance of the office upon the nation's overall system of land preservation. A reconsideration of the impact of public lands policy on the development of presidential power underscores the importance of this research and its contribution to the understanding of the presidency. The dissertation culminates with a

look ahead at potential future research deriving from the conclusions put forth in these pages.

CHAPTER II: NATIONAL FORESTS

The forest reserves, or national forests, serve as the first public land category in this examination of presidential power development. Congressional and presidential actions regarding forest reserves formed two important precedents for the presidency and land preservation policy. First, Congress provided a discretionary and direct authority to the presidency in domestic policy. Congress' grant of power to the presidency to withdraw land for forestry purposes is the first of such unilateral powers acquired by the executive in the realm of public land preservation. The act established a strong precedent: Congress endorsing the active participation of the president in public land, and domestic, policy. Second, presidents used this authority. Only four presidents had the opportunity to fully apply its power, but they did so in a way that set the stage for future presidents in other land reservation categories. Thus the passage and implementation of the Forest Reserve Act laid the foundation for future Congressional delegation and executive initiative in this policy realm.

The Forest Reserve Act passed both houses of Congress after decades of failed legislative attempts to establish forest reserves at the national level. In the years directly following the act's passage, presidents happily took advantage of their new ability to establish forest reserves. Their application of the power received support, both politically and logistically, from local interests and governmental agencies vested in the creation of the reserves. Presidents used the authority at such an impressive rate that Congress members and their constituents responded at times with fits of outrage. While these protests appeared passionate and sincere to those locally affected, Congress nevertheless continued to allow the presidency autonomy in this policy arena. The localized nature of the impact of forest reserves made it especially difficult to galvanize support for

revocation of the president's power. It would not be until eighteen years after the Forest Reserve Act's adoption that a true challenge to its power finally came to be in the form, rather ironically, of an amendment to a large omnibus bill. However, presidential action thwarted this challenge to a large extent, leaving the precedential nature of forest reserves and the power to establish them intact.

This chapter outlines the Forest Reserve Act's passage, implementation, limitation, and eventual repeal in regards to presidential power. First, historical context explains how this particular time period provided the opportunity for forest reserve legislation. Second, an overview of the Forest Reserve Act's legislative development and passage demonstrates the unique manner in which it came to be. Third, a discussion of the act's implementation shows how presidents enthusiastically embraced this newly delegated power. Fourth, Congress' response to this implementation is then detailed to demonstrate its concern over presidential practice, which appeared to grow with the continued creation of new forest reserves, especially during the Theodore Roosevelt administration. Finally, an analysis of the act's granted authority concludes the chapter by illustrating how the presidential use of the law, combined with three categories of Congressional acceptance, provided the basis for land preservation policy to contribute to the overall development of presidential power.²⁴

²⁴ The concept of "Congressional acceptance" is covered in greater detail in the Introduction. As a reminder however, "Congressional acceptance" is represented by four different action categories by the legislature in regards to the use of presidential power in land preservation. These four types of actions are: delegation, allowance, limitation, and emulation. Delegation refers to Congress granting specific powers to the president through formal statutes or laws. Allowance is the lack of action in response to executive use of power. Limitation means the attempt, successful or not, to cease or restrain executive power. Finally, emulation is Congressional action that mirrors or replicates presidential action.

Congressional (In)Action: The Context for a Forest Reserve Law

The American Understanding of Land: For the Economic Benefit of All

The 1870s marked a change in both the professional and public awareness of public lands and forests in the United States. Public land in America, from its founding through the majority of the nineteenth century, was never meant to be preserved. From the first Congress, land was seen as an economic opportunity; the young nation was poor in monetary wealth, but rich in land. Thus the government realized that its land could be sold to make up for its lack of funds. The idea of the government keeping the lands itself also went against the essential American understanding that government, especially at the federal level, was meant to be as limited as possible. For the government then to become a steward and keeper of the lands it owned, with power to decide what did or did not occur on such land, would not have been widely popular in the earliest years of the country's development. Consequently, nearly all legislation related to public lands provided opportunities for private purchase or adoption of land.²⁵

Many of the early land laws created the chance for settlers and buyers to cheaply acquire land and the resources it provided. The laissez-faire nature of these policies can be seen in such laws as the Timber and Stone Act of 1873 which allowed settlers to buy land rich in timber or stone, with the "promise" that they would use the land for their own personal uses, rather than speculation. However, "as might have been anticipated, the act was used chiefly by commercial timber operators to build up large holdings of valuable timberlands, with fraud playing a conspicuous part in the process." The only laws that

²⁵ Samuel Trask Dana, *Forest and Range Policy Its Development in the United States*, (New York: McGraw-Hill, 1956): 64-69, Randall K. Wilson, *America's Public Lands From Yellowstone to Smokey Bear and Beyond*, (Lanham, MD: Rowman & Littlefield, 2014): 23-24, 28-30, 34-37, and Dyan Zaslow and T.H. Watkins, *These American Lands Parks, Wilderness, and the Public Lands*, (Washington, D.C.: Island Press, 1994):63-64.

passed in favor of providing some protection to forests on public lands were those that reserved specific areas for timber development necessary for the United States Navy's use. Ships needed wood, and thus it was reasonable that the government could set aside some of its own timber for national defense.²⁶ The majority viewpoint regarding public land and its resources therefore concluded: we have a lot of it, a seemingly inexhaustible amount of it, why then not use it to our economic benefit?

As a consequence of this overall mindset towards public lands, private development and use ran rampant, especially when it came to the nation's public timber lands. From the country's founding to the 1850s, clearing of forested land resulted from private settlement and business development. The dominant practice of the time required the clearing and use of forested lands prior to settlement on "naturally cleared" lands, such as prairies. The Jeffersonian ideal of small farms forming the foundation of the new nation helped to encourage individual settlement on these lands from the start. Thus the majority of forest removal in approximately the first 75 years of the United States came at the hands of ordinary settlers, not timber businesses.²⁷

However, the pattern of small land owners felling the nation's forests for private benefit began to change around the midpoint of the nineteenth century. With the development of new industries, like railroads, demand for timber skyrocketed and businesses seeking to take advantage of this demand flourished. Systemic tree decimation became widely profitable, with companies establishing themselves in the

²⁶ Richard N.L. Andrews, *Managing the Environment, Managing Ourselves*, (New Haven, CT: Yale University Press, 1999): 92-93, 101-202, Dana 64-65, and Glen O. Robinson, *The Forest Service: A Study in Public Land Management*, (Washington, D.C.: Resources for the Future, 1975): 3.

²⁷ Andrews 81-82, 87-88 and Benjamin Horace Hibbard, *A History of the Public Land Policies*, (Madison, WI: The University of Wisconsin Press, 1965): 531-532.

dense forested states surrounding the Great Lakes and extending eventually to the West.

The path of the forest industry's progression spread from coast to coast:

First through New England, then into the Adirondacks and Catskills of New York and Pennsylvania, south into the Appalachians, through the Blue Ridge Mountains and the Great Smoky Mountains, clear to the edge of Florida. Up into the old Northwest, where Michigan lost its original forests in a single lifetime, where the old forests of Wisconsin were cut, rough-sawn into billions of board feet of unfinished lumber, packed together into rafts the size of football fields, and floated down the rivers to market. By the turn of the century the industry had jumped the continent to the West Coast, first to California...then to Oregon and Washington...then back into the interior of the continent, to the Rocky Mountains, through Colorado, Wyoming, Montana, and Idaho...²⁸

The creation of new technologies in timber manufacturing sped up the process at incredible rates. "In the fifty years from 1850 to 1900, the value of all forest products harvested increased from \$59 million to \$567 million, and in 1907 the value had risen to \$1,280 million, representing a consumption of over 20 million cubic feet of forest-grown material." The removal and use of trees no longer resulted from individual settlers building their homes and farms; now it stemmed from large businesses seeking to make huge profits with increasingly fast production.²⁹ The impact of these new industries led some individuals to realize that American forests might actually *not* be inexhaustible after all.

With Abundant Development Comes Reconsideration of Land Use

Out of the realization that the forests in the United States could not be harvested forever came a small movement calling for a reconsideration of the use, and abuse, of this important natural resource. Key organizations and individuals brought attention to the issue of forest decimation to the American public and its lawmakers. Civil organizations, such as the American Forestry Association, which later formed the basis of the American

²⁸ Zaslowky and Watkins 62 (quotation).

²⁹ Bernhard E. Fernow, *A Brief History of Forestry in Europe, the United States, and Other Countries*, (Toronto: University Press, 1911): 470-473, 479, quotation on 471 and Zaslowky and Watkins 62-67.

Forestry Congress, shed light upon the problem by conducting research on the state of the American forests, especially in comparison to those abroad. Their conferences allowed forestry research to be shared amongst scholars and the public. The American Association for the Advancement of the Sciences also played a key role by being the first organization to officially petition Congress for legislation to encourage "...the cultivation of timber and the preservation of forests." At the individual level, the widely popular book *Man and Nature* by George Perkins Marsh made the argument that human action had led to the decline of the old, great civilizations through the destruction of their surrounding environment. He attributed much of this decline to over-use and waste of natural resources, like timber: "Man has too long forgotten that the earth was given to him for usufruct alone, not for consumption, still less for profligate waste." Marsh warned that America's current path could lead to a similar deterioration of its civilization as seen in the earlier examples he studied.³⁰

Out of these influences came the idea and widespread fear that a "timber famine" could, and would, soon occur. Beyond the concern that widespread use of timber would make it more difficult to acquire, scientific research showed the impact deforestation could have on watersheds throughout the country. Distress over the condition of the Erie Canal encouraged studies and advocacy on behalf of the lands losing trees at what many considered an alarming rate. The public nature of both the scientific community's studies and the opinion stories associated with it translated into political pressure upon members of the United States Congress. This pressure resulted in "...increasing discussion of

³⁰ Dana 76-87, George Perkins Marsh, *Man and Nature*, (Cambridge, MA: Belknap Press, 1965): 36-40, 257-259, quotation on 36, Gerald W. Williams, *The Forest Service Fighting for Public Lands*, (Westport, CT: Greenwood Press, 2007): 4, and Zaslowsky and Watkins 65-66.

forest practices in the Congress.”³¹ Lack of regulation and the prosperity that the forestry industry brought to western land owners resulted in this widespread, and consequently political, concern.

Local media sources covered the above developments, inspiring public support through interest stories and editorials, which in turn further attracted the attention of Congress to conservation measures. The conservation of forests found support in the columns of the *New York Times*, *The Sun*, *The Evening Post*, and *The Boston Herald*, to name just a few of the major news sources covering the issue. Historian John Ise relates that this coverage often went hand-in-hand with the desire of Americans to maintain a source of timber locally rather than pay tariffs that recently went into effect with Canada.³² Whether the concern came from purely conservation measures, or received support due to economic interests, the idea of a timber famine in the United States elicited responses from local and national media. Specialty journals related specifically to the application and development of forestry also developed during the years leading up to the Forest Reserve Act’s passage. Pennsylvania Forestry Association’s *Forest Leaves* began in 1886, and *Garden and Forest* out of Harvard “...for ten years did much to enlighten the public on forestry matters.” An 1889 editorial in *Garden and Forest* by Harvard professor Charles S. Sargent publically called for the withdrawal of federal forested lands while a commission studied and offered recommendations as to the best

³¹ Andrews 105-106, Benjamin Kline, *First Along the River A Brief History of the U.S. Environmental Movement*, (San Francisco: Acada Books, 1997): 55, Robert Bassman, “The 1897 Organic Act: A Historical Perspective,” *Natural Resources Lawyer*, 7, 3 (Summer 1974): 503, and David Stradling, “Introduction” in *Conservation in the Progressive Era Classic Texts*, ed. David Stradling, (Seattle: University of Washington Press, 2004): 4-5.

³² John Ise, *The United States Forest Policy*, (New Haven: Yale University Press, 1920): 92-94.

methods for use and preservation.³³ Thus both common and specialty sources presented and encouraged the ideas of forestry management and protection to the general public.

The coverage and concern over the destruction of the nation's forests first inspired action at the state level, setting the stage for possible federal action. Many states, from Vermont to California, instituted state forestry commissions, commissioners, and boards to determine the best policies for the use of forests within their boundaries. New York's Forestry Commission, founded in 1884, set the stage for responsible forestry regulation and practices by a large state government. The state appropriated \$5,000 to research best practices in the formation of a commission, and passed a law to create a permanent commission in 1885. The New York organization provided a blueprint for a number of state forestry commissions in the years following. One result of these efforts included a state run forest reserve in the Adirondack Mountains in 1885; the earliest of its kind. Debates over the establishment of the reserve received wide attention by the press, and served as an example for what might be possible at the federal level.³⁴

With increasingly widespread knowledge regarding the detrimental nature of timber cultivation, vested interest groups began to lobby the federal government directly. In April of 1889, the law committee of the American Forestry Association held a meeting with President Benjamin Harrison. They asked the president to encourage the development of an official forestry policy for the federal government. With no subsequent effort made by Harrison, the association sent an official petition to Congress asking them to consider the protection of federal forest lands and the development of an

³³ Paul W. Gates, *History of Public Land Law Development*, (Washington, D.C.: Public Land Law Commission, 1968): 563-564, Ise 95 and Williams 5.

³⁴ James L. Huffman, "A History of Forest Policy in the United States," *Environmental Law*. 8, (1978):253, Ise 76-77, and Harold K. Steen, *The Beginning of the National Forest System*, (Washington, D.C.: U.S. Department of Agriculture Forest Service, 1991): 15.

efficient management program. While Congress did not pass such legislation in 1889, the association's endeavors paid off with the endorsement and support from the Boone and Crockett Club, a popular and influential sportsmen club that aided in the earlier designation of Yellowstone National Park.³⁵ Thus the combined efforts of advocates for federal forest preservation rallied local and public support for Congressional consideration of numerous forestry bills leading up the Forest Reserve Act's passage in 1891.

Early Congressional Concern over Forests: Unsuccessful Legislative Attempts

As a result of this public and private interest, Congress considered a large number of bills (approximately 200) related to the regulation and oversight of forestry practices in the United States during the period of 1870-1890. Perhaps the most important related piece of legislation to be passed during the 1870s was an amendment to the 1876 agricultural appropriations bill. The amendment called for the country's first "forest agent" to be appointed in order to investigate and write a report on the state of America's forests. Sponsored by Minnesota Congressman Mark Hill Dunnell, the use of the amendment method allowed for the forest agent bill to be passed, despite its failure as a stand-alone proposal in 1874.³⁶

Franklin Benjamin Hough, author of an important paper on the use of the federal government to protect forests from overconsumption in 1873, served as the nation's first forest agent. He presented his paper at the American Forestry Association's annual

³⁵ For further discussion of the individuals responsible for the passage of the Forest Reserve Act, see the Congressional Action section below.

Gates 566, Ise 111, William G. Robbins, *American Forestry: A History of National, State, and Private Cooperation*, (Lincoln, NE: University of Nebraska Press, 1985): 6-7, Harold K. Steen, *The U.S. Forest Service A History*, (Seattle: University of Washington Press, 1976): 26, and Williams 5-6.

³⁶ Steen *The Beginning of the National Forest System*, (Washington, D.C.: U.S. Department of Agriculture Forest Service, 1991): 3-4 and Steen, *The U.S. Forest Service A History* 11-13.

meeting that year, comparing forest use practices already in place in Europe with policy proposals for the United States. The association's members vowed to get his ideas realized and sought the help of Congressman Dunnell to get their message to Congress. Dunnell's political maneuvering did not get the ultimate outcomes Hough and the association wanted immediately, but did get Hough named as forestry agent in 1876. Hough set to work and delivered remarkably detailed reports of 600 pages or more in 1877, 1880, and 1882 on the state of the country's forests. Despite the reports' popularity, (Congress ordered 25,000 copies of the first report to be printed, a rare occurrence in those days), legislation resulting directly from Hough's study did not come to fruition.³⁷

With continued interest in deforestation and its effects, Congress members attempted to pass a number of bills related to general forestry regulation. One of the earliest proposals came in February 1876, when Representative Greenbury Fort of Illinois introduced H.R. 2075 in the House. The purpose of the legislation read, "For the preservation of the forests of the national domain adjacent to the sources of navigable rivers and streams of the United States." The bill was read twice on the floor and referred to the Committee on Public Lands, but never made it beyond committee negotiations. In 1882, Ohio Senator John Sherman introduced a bill that sought to preserve woods and forests similar to those found in Fort's H.R. 2075. Both Senate and House versions were

³⁷ John Sheail, *Nature's Spectacle The World's First National Parks and Protected Places*, (Washington, D.C.: Earthscan, 2010): 66, Steen, *The Beginning of the National Forest System* 5-7, Steen, *The U.S. Forest Service A History* 9-17, and Stradling 4.

offered for suggestion, but neither made it beyond committee consideration. A similar set of bills in both houses emerged again in 1884, but quietly died in committee.³⁸

With the passage of time, the amount of bills seeking some protection of federal forested land increased in spite of their inability to receive full consideration. In fact, over two dozen bills related to forest reserves went through the House and Senate in the year 1888 alone.³⁹ The reasons for the bills' continued failure lay not with conflicts between political parties or factions, but with the fact that reserving public land went against the long tradition of American expansion through the sale of government owned property. When it came to the proper use of federal land, the dominant perspective of Americans, and of their elected and governmental officials, was to sell and develop land from one coast to another in order to extend the reach of the new nation as far as geographically possible. Additionally, powerful and active groups worked to maintain access to federally owned timber lands for their commercial use. Mining, railroad, and timber companies all sought to prevent legislation geared toward denying development, while those with a more conservationist bent suffered from lackluster determination in order to overcome such strong interests in Congress. This lack of concern occurred most in the areas of the country where timber development and eventual depletion came last: the Western states. Consequently western members of Congress, regardless of party, often served at the largest source of opposition to any preservation attempts, wishing to keep the land open for private acquisition and settlement.⁴⁰

³⁸ Dana 98, H.R. 2075, 44th Cong. (1876), Ise 112-113 and Steen, *The Beginning of the National Forest System* 10-11.

³⁹ Ise 112-113 and Steen, *The Beginning of the National Forest System* 10-11.

⁴⁰ Huffman 254, Ise 35-36, 38-40, and Steen *Beginning of the National Forest System* 4.

Despite the fact that earlier bills failed due to consistent opposition and underwhelming support, they played important roles in the passage of forest preservation legislation in two ways. First, they proved that at least some Congress members' cared about and voiced concern over widespread deforestation and its effects. Second, two of the bills served as the basis for what would eventually become the Forest Reserve Act of 1891.

The first of these influential bills, H.R. 7901, sponsored by Representative William S. Holman of Indiana, sought "to secure to actual settlers the public lands adapted to agriculture, to protect the forests on the public domain, and for other purposes." From the title of this bill, it is clear that preserving forests was not its main focus. The bill principally ensured access to public lands for settlers, and therefore it sought to classify those lands into different categories for use and development, from mining to agricultural to timber lands. Section 8 of the bill called for president authority to reserve some of these public lands:

That the President of the United States may from time to time set apart and reserve, in any State or Territory having public lands bearing forests, any part of the public lands designated in this act as timber lands, or any lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations, which the trees and undergrowth shall be protected from waste or injury, under the charge of the Secretary of the Interior; and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof.

The debate surrounding this bill lasted for five days, but Section 8's contents surprisingly did not receive much attention, as members were more concerned over defining who

should or should not be considered a settler.⁴¹ The bill did not pass, but it did include language that provided the president the power to set aside lands, and would be remarkably similar to that seen in the Forest Reserve Act.

The second of the instrumental bills to go through Congress was S. 1779, sponsored by Senator Eugene Hale of Maine. This bill greatly differed from H.R. 7901, as its primary purpose, seen in its title, was “For the Protection of and Administration of Forests on the Public Domain.” The act called for the removal of tracts of land by the president which would become *permanent reserves*. Regulation and control over these tracts would be carried out by a new bureau under the jurisdiction of the Department of Interior. Both houses of Congress considered the bill and sent it to their relevant committees, but neither of the bills made it out of committee. S. 1779 included the essence of Section 8 in H.R. 7901, but made preservation its focus by calling for permanent reserves, and increased the power of the president by allowing him to set aside these permanent areas, with the continued control granted to an executive branch agency.⁴² Thus H.R. 7901 and S. 1779 represent a strong basis from which both the sentiment and the language for the Forest Reserve Act would later be pulled.

Congressional Action: The Forest Reserve Act of 1891

Federal Forest Reservation Becomes Law

It is impressive that a forest reservation measure finally passed both houses of Congress due to the long period of inaction by Congress in regards to forest reserves and the prevailing forces against a reservation measure. The law’s passage is significant not

⁴¹ To Secure to Actual Settlers the Public Lands Adapted to Agriculture, to Protect Forests on the Public Domain, and for Other Purposes, H.R. 7901, 50th Cong. (1888), Ise 113-114 and Steen, *The Beginning of the National Forest System* 10-13.

⁴²For the Protection of and Administration of Forests on the Public Domain, S. 1779, 50th Cong. (1888), Ise 113-114 and Steen, *The Beginning of the National Forest System* 10-13.

only because it went against the dominant understanding of governmental land management in America (disposal for economic and geographical gain), but because of its unprecedented nature of the delegation of power to the presidency. The provision granting the president the power to declare forest reserves may have passed due to a political maneuver, but it still represented a Congressional endorsement of presidential power in the realm of government-owned lands. This action is critical for the consideration of all public land establishment power to come.

The name of the final forest preservation legislation, “The Forest Reserve Act,” is quite misleading. Finding a copy of this act, as an independent entity unto itself, is impossible. How and why? Due to the fact that the Forest Reserve Act was no more than a rider attached to an omnibus bill of 1891, not an independent act unto itself. The amendment was attached to a larger reform act by which the Congress repealed a number of the components of the Timber Culture Act of 1873.

The General Land Law Revision Act of 1891, the statute of which the Forest Reserve Act was a part, had little to do with conservation or preservation. Instead, Congress tried to improve American settlers’ access to public lands within its measures. The goal of the bill was not to preserve, but to provide. In fact, the bill did not even contain the forest reserve rider for the majority of the time that Congress debated and amended the Revision Act. The original Timber Culture Act attempted to encourage the settling of lands and the planting a designated number of trees on the parcels purchased by settlers (primarily on western lands). Unfortunately, the desired outcomes of the act did not come to fruition. Instead, individuals and groups manipulated the law’s provisions to commit land fraud. Minnesota Representative Mark Dunnell, friend and

supporter of Franklin Hough, originally sponsored the law, having believed that it would, in fact, encourage proper settlement of the West. Thus when the Revision Act of 1891 came to the floor for debate, he felt the need to defend the statute's intent, even if he could not point to tangible positive results. Representative Holman, a member of the committee considering the Revision Act, would hear nothing of Dunnell's defense, as would no other members of the House. The bill made it through the House in a matter of four days, with its approved version sent to the Senate for consideration.⁴³

The Senate deliberated the House version, added a few amendments, and sent it back to the House with a request that the two chambers meet in conference. The bill stayed within the conference committee for five months until February 28, 1891. The House members on the conference committee disliked a number of the Senate's amendments. Thus debate ensued for months, during which the House and Senate members compromised to try to find a middle ground between their respective interests. The final version of the bill, as it came out of conference, had 24 sections recommended for passage by the committee. The timing of the bill's reemergence was significant as the House and Senate had only three days before the end of the Congressional session to debate the conference version of the bill. It must be noted that this debate and consideration included a new 24th section, that which would become known as the Forest Reserve Act. This meant that at some point within the five months of conferencing,

⁴³ Cecile Brooks-Nicolopoulos, "Forest Policy (1890-1910): The Impact of Two Pioneering Decades," *Revue Française D'Études Américaines*, 70 (October 1996): 30-31, General Land Law Revision Act of 1891, 26 Stat. 1103 (1891), Steen, *The Beginning of the National Forest System* 18, and Steen, *The U.S. Forest Service A History* 27.

someone or some persons managed to insert the preservation of forests into a bill primarily intended to correct land fraud issues.⁴⁴

Once on the House and Senate floors, members debated the bill's conference version. In the Senate, Kansas Senator Preston Plumb, chairman of the Senate Public Lands Committee, urged the chamber to pass the bill without reading it aloud for final consideration. Plumb argued that all of the amendments and original content had been considered by the Senate in the past and thus did not need to be discussed again. Additionally, Senator Plumb pointed out that a thorough reconsideration of the omnibus bill was near to impossible if the chamber had any hope of passing it before recess. If they wanted to pass the bill, they needed to get it done quickly. Plumb's main resistance came from Senator Wilkinson Call of Florida, who argued that not reading the bill aloud prevented senators from knowing what was truly within the bill's language. Wilkinson's main point of contention came from the fact that he did not want to support any piece of legislation that could potentially prevent acquisition of land by the American people.

I desire to say that I know nothing of its provisions, but it disposes of a vast portion of the public domain of this country, as I gather from the reading. In my judgment the question of the disposition of the public lands is one of the most important that could be presented to the consideration of this body. I believe those lands should be reserved for homes for the people who live upon and cultivate them.⁴⁵

Due to the content of these remarks, Wilkinson appears to be referring to the 24th section of the bill. However, Plumb argued that the entire bill's purpose protected against the types of action that had occurred under the Timber Culture Act; those actions which had

⁴⁴ Joseph A. Miller, "Congress and the Origins of Conservation: Natural Resources Policy, 1865-1900," (Ph.D. diss., University of Minnesota, 1973): 235 and Steen, *The Beginning of the National Forest System* 19.

⁴⁵ 22 Cong. Rec., 3546-3647 (February 28, 1891).

allowed for manipulation and corruption of land acquisition in the West. He stated that no bill had ever done more to improve the potential for individual land settlement than that which was being debated. After these exchanges, Plumb's arguments finally appeased Wilkinson, and the Senate passed the conference bill.⁴⁶

Meanwhile, the House also considered the conference bill. Different from the Senate, the House did read the bill aloud, covering both the summary and the final full version. In the House, some members voiced resistance to the inclusion of the 24th section. While the arguers of this position stated that they understood the need for forest reserves when it came to protecting lands necessary for watersheds, they worried about granting this power to the president. They feared that the president could act beyond the bill's intent due to the broad wording of the act, which permitted the president to set aside lands due to "agricultural quality." Representative Holman, countered with the argument that the House had considered and passed similar language in the past, and therefore should not allow the rider's inclusion to be the reason for delaying the overall bill's passage. Holman then used the same argument as Plumb in the Senate: time was running out in the session, if the House wanted the other 23 provisions passed to help settlers, then they needed to act quickly. If doing so meant including this new power for the president, then so be it. This argument assuaged the last bit of contention. The bill passed on February 28, 1891, with a final reading following on March 2, 1891.⁴⁷

President Harrison signed it into law on March 3, 1891.⁴⁸ Thus a rushed timeframe and

⁴⁶ Ise 116, Miller, "Congress and the Origins of Conservation: Natural Resources Policy, 1865-1900" 235 and Steen, *The Beginning of the National Forest System* 19-20.

⁴⁷ Unfortunately, there is no recorded vote for the entire bill that became the General Land Law Revision Act (see Gates 304). However, since the forest reserve provision was just a rider to the omnibus bill, the vote differential would not provide much insight into the real views and opinions of Congress members regarding the executive authority to establish reserves.

⁴⁸ Gates 304-305 and Steen, *The Beginning of the National Forest System* 20-21.

influential supporters in both houses managed to push through a precedent-setting bill for conservation, preservation, and executive power.

Key Aspects of the Forest Reserve Act's Passage

The scholarship surrounding the Forest Reserve Act tends to focus upon the idiosyncrasies of the bill's passage, rather than its implications for the American institutions involved: the presidency and Congress. First, scholars marvel at the speed through which the conference version of the Revision Act, which included the forest rider, went through two chambers of Congress. By being attached to a larger, more widely supported bill, the passage of an act that Congress had denied for so many years finally came to be. Second, the fact that the bill did not go through the complete process of reconsideration, despite the amendments made to it while in conference, is often highlighted. However, U.S. forestry history scholar Harold K. Steen argues that this type of action was not unusual in Congress during this time period, and thus should not be seen as a devious attempt by forest preserve supporters to sneak the amendment through, as it may otherwise appear. Also, both the House and Senate considered the conference bill, including discussion of Section 24 according to the *Congressional Record*. So Congress members were at least aware of the bill in its entirety, despite any discrepancies with the typical legislative process.⁴⁹

Third, and perhaps the most interesting aspect of the Forest Reserve Act's story, is the debate over who actually wrote and managed to get the conference to include the 24th section in the Revision Act. This debate is crucial to the presidency-Congress power

⁴⁹ Additionally, as it noted by supporters of the bill, the idea of federal forest reserves had already been debated, and even passed, in both houses of Congress leading up to 1891. The rider's addition did not, therefore, constitute the inclusion of a brand new and undebated proposal. Steen, *The Beginning of the National Forest System* 22-23 and Steen, *The U.S. Forest Service A History* 26-28.

dynamic because it highlights two possible sources for the idea, one from the executive and one from Congress. The history of the rider's addition is rather contentious since the bill did not include the 24th section going into conference, but came out with it. Beyond this, not much is known. This did not stop individuals from claiming some sort of credit (many times long after its passage), and as a consequence, further increasing the number of accounts and confusion over who can make a legitimate claim to being the author and sponsor of the "act."⁵⁰ Two individuals arise as the most plausible candidates for authorship of the rider. The most commonly accepted story is that President Benjamin Harrison's Secretary of the Interior, John W. Noble, held influence over the members on the conference committee and convinced them to include the language in the bill. The less well-known and more recently discovered alternative to the accepted Noble is Representative Holman. As a previous sponsor of similar bills, and member of the conference committee, Holman's involvement makes him a serious contender for the bill's author.⁵¹

Secretary of the Interior Noble is oft-cited as the responsible agent for the inclusion of the 24th section of the Revision Act. The "generally-accepted" version of the story is that the American Forestry Association had a law committee which worked for years to get a law passed to preserve the public forests of America. One of the members of this committee, Bernard Fernow, was also the chief of the Division of Forestry under the Department of Agriculture. Fernow and his fellow law committee members approached Secretary Noble after failed attempts in 1889 with both President Harrison

⁵⁰ For example, South Dakota Senator Richard Pettigrew and Publisher Robert Underwood Johnson both made claims (after the Reserve Act's success) to being responsible for the amendment's inclusion, in addition to the more plausible individuals discussed below. See Steen's *The Beginning of the National Forest System* 22.

⁵¹ Steen, *The Beginning of the National Forest System* 22.

(who is noted to have been at least open to the idea, but not to the point of action), and Congress. However, in meeting with Secretary Noble, so the story goes, the committee finally found a supporter within the administration. It is claimed that Noble managed to use his position and influence to get the conference committee working on the Revision Act to include an amendment on forest preservation. Fernow himself, in a letter to John Ise who wrote the first history of American forestry policy, granted Noble the distinction by stating that Noble told the conference committee that he would not allow the president to sign the bill without the forest reserve rider attached. While Fernow admits that he could not be certain that Noble did this, or even said such words as the conference met behind closed doors, this was the story he knew to be true. Unfortunately, no official documentation to corroborate this story exists, as many of the pertinent documents have either been destroyed or lost.⁵²

However, Herbert D. Kirkland, in his dissertation on forest policy, cast doubt upon whether Secretary Noble even knew of the 24th section prior to it being passed. Instead, it appears from Division of Forestry papers that Noble actually found out about the Forest Reserve Act two weeks after its passage, in a private meeting regarding the effort to expand the protected lands of Yellowstone Park. Noble's employee, Arnold Hague, realized that the rider could be used to establish lands surrounding Yellowstone as a reserve, as legislation to expand the park had recently failed in Congress. According to Hague's personal letters, *he informed Noble* of Section 24, and together they wrote the proclamation for Harrison's first forest reserve under the new law. However, many

⁵² Ron Arnold, "Congressman William Holman of Indiana: Unknown Founder of the National Forest," in *Origins of the National Forests A Centennial Symposium*, ed. Harold K. Steen, (Durham, NC: Forest History Society, 1992): 301-305, quotation on 305, Ise 115-116, and Williams 5-6.

historical accounts rely upon Hague's statements regarding Noble's participation in a letter and supporting documents for an article on the Forest Reserve Act in *Forest and Stream* magazine as proof that Noble led the charge to include the measure in the bill. In describing how the Forest Reserve Act entered into the fold, Hague told *Forest and Stream*'s editor George Grinnell, that while he did not know for sure who wrote the rider, that Grinnell needed to give Noble "...a little taffy for his seeing the necessity for this thing," with the "thing" being the Forest Reserve Act.⁵³ Thus Hague's personal documents dispute his own account of the bill's passage that is often cited as proof of Noble's achievement.

The alternative account attaches Representative Holman of Indiana to the rider's inclusion. Forestry historian Ron Arnold argues that Holman is the most convincing option compared to the rather shaky account of Secretary Noble. Arnold went through the *Congressional Record* to see if it was possible to figure out if one of the conference members was the true author of the all-important rider. Looking into the background of each of the members, it becomes clear that Holman is an extremely likely candidate due to his previous sponsorship of past bills on forestry. In fact, Holman served as the primary sponsor of H.R. 7901, which included language nearly identical to that seen within Section 24 of the General Land Law Revision Act. Here are the two sections for comparison, with the italicized words in Section 8 being the only differences between the two sections:

Section 8, H.R. 7901: That the President of the United States may from time to time set apart and reserve, in any State or Territory having public lands bearing forests, any part of the public lands *designated in this act as timber lands, or any lands* wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations, *which the trees and undergrowth*

⁵³Arnold 302-305. For original description in Ise's history, see Ise 114-116, especially fn. 187.

shall be protected from waste or injury, under the charge of the Secretary of the Interior; and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof.

Section 24, General Land Law Revision Act, 1891: That the President of the United States may, from time to time, set apart and reserve, in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations, and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof.

As can be seen above, Section 24 is grammatically incorrect, which makes sense if it had been pulled directly from H.R. 7901, as that resolution focused upon specific categorization of timber lands, and thus had language included in it unrelated to that within the Revision Act.⁵⁴

Holman also had political reasons to include the rider—he had been relegated to the lowest chair on the Public Lands Committee as a Democrat within a Republican-dominated Congress in 1891, as compared to his position as chair of the committee in the Democratic-dominated Congress of 1888 (when he proposed H.R. 7901). Arnold argues that Holman would have liked the fact that the amendment went against Republican-supported corporate interests, and would have known that it was technical enough to not raise too many eyebrows from his fellow conference members. So from near exact language of the bill in the Revision Act to H.R. 7901, and political and personal motivation, the claim that Representative Holman inserted Section 24 is a strong one.⁵⁵ A little known Indiana Representative could, therefore, be the “founder” of America’s forest reserves.

⁵⁴ Arnold 305-312 and Steen, *The Beginning of the National Forest System* 22-23.

⁵⁵ Arnold 305-312 and Steen, *The Beginning of the National Forest System* 22-23.

The debate over who inserted the amendment, and the most likely incorrect contention that the executive (writ large) pushed through the Forest Reserve Act, is important beyond mere curiosity or correct history. Most of the accounts credit Secretary Noble based solely on the published news article giving Noble recognition. Therefore the act's "source" can be claimed to be from the president's administration, and thus not from the more traditional source of Congressional debate and committee work. By allocating the responsibility for the rider's inclusion to the executive, historians essentially neglect to show that the delegation of power to the presidency by Congress actually originated in Congress, not in the administration. It is likely that Noble did generally support the language of the rider. It is also known that Harrison was at least generally supportive of forest reservations. But it is not clear that either of them played a role in the inclusion or passage of Section 24 which specifically granted a new power to the president. Instead, it is clear that Congress members, including Representative Holman, worked for years to pass a similar bill and therefore had the motive and the ability to finally get the Forest Reserve Act passed. Thus the power delegated to the president came not from a suggestion or threat by the administration, but through continued efforts by members of Congress. This distinction matters as it shows that it was Congress, not the executive, which initiated the grant of power of establishment to the presidency.

Presidential Action: Implementation of the Forest Reserve Act

With the adoption of all 24 provisions within the General Land Law Revision Act of 1891, the presidency gained a strong discretionary power directly from Congress. However, this development would only have been an interesting historical footnote had

presidents shown little or no interest in exercising the Forest Reserve Act's power. But this did not occur. Instead, presidents employed the new power from the start, crafting a significant precedent for the office when applying discretionary authority in public lands.

The passage of the Forest Reserve Act may have taken years, but its implementation did not suffer the same fate. Despite different views of the presidency, different political affiliations, and different durations and time in office, the presidents immediately following the act's passing enthusiastically used the new power granted to them by Congress. Presidents Harrison, Cleveland, McKinley and Roosevelt all used the power to set aside forests, with Theodore Roosevelt, designating the largest number of acres during his administration. The consistent application of the presidential authority stemmed in part from local groups and federal entities providing the impetus and institutional support for continued reserve formation. The zealous application of this delegated power brought a feeling of remorse amongst some in Congress. As a result, it was not long before there were attempts to reduce the authority of the president to establish forest reserves. While in the end Congress did manage to withdraw a great deal of the power it had given, it was only able to do so after the landscape of the United States had been irretrievably altered by the action of the executive.

Harrison's Actions: The Nation's First Forest Reserves

President Harrison signed the General Land Law Revision Act into law on March 3, 1891, repealing the ineffective Timber Culture Act and providing the presidency with a new power within the realm of not only environmental, but domestic, policy. While some in Congress may not even have known the General Revision Act included this new power for the president, those who did know and had been supporters of such, rejoiced in

its passing. President Harrison wasted little time in taking advantage of the new power; within weeks he established the first official forest reserve in the nation. On March 30, 1891, Harrison issued a proclamation to create a reserve adjacent to Yellowstone National Park. As mentioned above, proponents of extending Yellowstone had been working to convince Congress members of the need for its expansion, without any success.⁵⁶ Harrison's remaining designations continued in a similar fashion, as he created reserves based upon requests from groups of local citizens.⁵⁷ So with this new power granted by Congress, a more direct and unitary outlet for action in land preservation had been made available to the people: the president of the United States.

President Harrison's quick and enthusiastic use of the reservation power is rather surprising given his overall understanding of and approach to the presidency. Harrison is known for his stalwart belief in the almost purely administrative role of the office, and granted great deference to Congress in terms of power. As biographer and historian Harry J. Sievers notes, "Government, in Harrison's view, was the servant of the people. And because he felt that it was the right of the people to make their own laws, he based his political philosophy on the premise that: 'to govern best is to govern least.' Determined to exercise only the most basic functions of his office, Harrison would cling to this creed."⁵⁸ It is possible that Harrison felt comfortable using the forest reserve power due to the fact that it had been delegated by Congress; yet his keenness for this power appears at least somewhat contradictory to his understanding of the presidency.

⁵⁶ Arnold 302-305, Bassman 503, Ise 120, and Proclamation No. 303, 26 Statute 1565 (March 30, 1891). See also Table I: National Forests (Newly Withdrawn Lands).

⁵⁷ Fernow 417 and Roy M. Robbins, *Our Landed Heritage The Public Domain 1776-1936*, (Gloucester MA: Peter Smith, 1960): 305.

⁵⁸ Sidney M. Milkis and Michael Nelson, *The American Presidency Origins and Development, 1776-2002*, (Washington, D.C.: CQ Press, 2003): 190-192, and Harry J. Sievers, *Benjamin Harrison Hoosier President*, (New York: Bobbs-Merrill Company, Inc.): 4-5.

Throughout his time in office, Harrison created fifteen different forest reserves with a total acreage of over 13 million acres.⁵⁹ One of his first proclamations, that establishing Afognak Island Forest Reserve, included amongst its purposes protecting certain fish stations near the Afognak Bay, River, and Lake. This action, surprisingly outside of the forest reserve powers granted in the General Revision Act, can be viewed as providing the precedent for establishing future national wildlife refuges; put in place first (officially) by President Theodore Roosevelt. Harrison's inclusion of this point also represents the first expansive application of a land reservation authority by the presidency; showing from the start that presidents could, and would, fully exercise the discretion given to them. By the time Harrison left office a mere two years after the enactment of the Forest Reserve Act, the country had protected forested areas across millions of acres in Colorado, Arizona, California, Oregon, Washington, and Alaska.⁶⁰

Cleveland's Reservations: Slow to Begin, but a Strong Finish

With the election of 1892, Grover Cleveland entered the White House for the second time as its resident. Similar to Harrison, Cleveland viewed the role of the president even more conservatively, thus making him a prime candidate for the limited application of the Forest Reserve Act. He saw the presidency more as an executor of Congress, yielding to the legislature in most regards.⁶¹ With this perspective inherent in Cleveland's presidency, it is interesting that he too did not shrink from the opportunity to set aside forest reserves. In fact, his first two forest reserves, both in the state of Ohio, came within his first six months in office. On September 28, 1893, Cleveland preserved

⁵⁹ Table I: National Forests (Newly Withdrawn Lands).

⁶⁰ Bassman 503, Ise 120, Milkis and Nelson 190-192, Proclamation No. 343, 27 Statute 1052, (Dec. 24, 1892) and Sievers 4-5.

⁶¹ H. Paul Jeffers, *An Honest President The Life and Presidencies of Grover Cleveland*, (New York: William Morrow, 2000): 349-350 and Richard E. Welch Jr., *The Presidencies of Grover Cleveland*, (Lawrence, KS: University Press of Kansas, 1988): 10-12.

over 5 million acres between Cascade Range and Ashland Forest Reserves.⁶² With these two designations, Cleveland realized that while the Forest Reserve Act had granted the president the opportunity to create reserves, no direction existed on how to manage said reserves. Congress passed no subsequent legislation to state just how the government should control the new protected lands, from which agency should have jurisdiction over them, to what uses, if any, they should serve. Cleveland even made a recommendation to Congress during his Annual Message of 1893 to consider measures for “...a comprehensive forestry system...as are necessary to protect the forests already reserved...” As a result, Cleveland abstained from forming new forests until Congress decided upon such measures.⁶³

To address these concerns over the establishment of federal land reserves, Congress, with the encouragement of the American Forestry Association and the Department of the Interior, formed a federal forestry commission through the National Academy of Sciences. The legislature tasked the commission with the responsibility of assessing the state of the current reserves and seeking out prime locations for potential forest reserves. Members of the commission, including future head of the Forest Service Gifford Pinchot, traveled throughout the western United States and compiled a report of their findings. Delivered to the president, the report included a sizeable list of potential areas for forest designation.⁶⁴

Upon receipt of the commission’s report, and in what can only be described as a bold “lame duck” move, Cleveland proclaimed each and every one of the forests

⁶² Table I: National Forests (Newly Withdrawn Lands).

⁶³ Proclamation No. 361, 28 Statute 1240, (Sept. 28, 1893), Proclamation No. 362, 28 Statute 1243, (Sept. 28, 1893), Gerald W. Williams, *The Forest Service Fighting for Public Lands*, (Westport, CT: Greenwood Press, 2007): 6, 53rd Congress, Second Session, *Senate Journal*, 9, and Robbins, *Our Landed Heritage The Public Domain* 305-307.

⁶⁴ Ise 128-129, Steen, *The U.S. Forest Service A History* 3-33, and Williams 6-7.

recommended by the Commission. Known as the “Washington’s Birthday Reserves,” Cleveland established thirteen more reserves on February 22, 1897, the anniversary of the first president’s birth and one of Cleveland’s last days as president. These forests covered an astounding 20 million plus acres in six different states, bringing the president’s total forest reservations to fifteen.⁶⁵ Thus the majority of Cleveland’s reserve proclamations stemmed from the recommendations of a governmental entity invested in the formation of forest reserves. As a result of his early and last minute actions, Cleveland contributed a substantial addition to the protected lands of late 19th century America, and also left the political consequences of his enthusiastic application of the Forest Reserve Act to his successor, William McKinley.

McKinley’s Approach: Consistent Application despite Political Hurdles

Arriving in office on the heels of Cleveland’s “birthday” reserves, McKinley keenly felt the blowback that could be evinced from a hostile Congress. During Cleveland’s final days in office, opponents placed within the Sundry Civil Bill (which provided appropriations for the government) a number of amendments regarding forest reserves, including the deletion of the Washington’s Birthday reserves. President Cleveland however refused to sign the bill due to these inclusions. This act forced McKinley, upon entry into office, to call Congress together in order to pass the Sundry Civil Bill and settle the debate over the reserves. During this settlement, supporters of the reserves caught the ear of Senator Richard Pettigrew, an influential member of the Public Lands Committee and critic of the forest reserves, and convinced him to only “suspend” the reserves for nine months rather than eliminate them altogether. A

⁶⁵ Ise 128-129, Proclamation Nos. 392-404, 29 Statutes 893-911, Steen, *The U.S. Forest Service A History* 33-34, and Williams 6-7. See also Table I: National Forests (Newly Withdrawn Lands).

politically savvy maneuver, this appeased the angry Western Congress members, but prevented the complete loss of Cleveland's contribution.⁶⁶

Considering the political onslaught President McKinley faced within his first few weeks in office over the forests, it would have been more than understandable for him to refrain from creating any forest reserves himself. Yet again, this was not the case. McKinley established at least one new forest reserve and enlarged a number of existing forests every year he was in office. His new reserves totaled over 7 million acres, which brought the overall number of reserved forest acreage to over 50 million by the time of his unexpected death in 1901.⁶⁷ Despite his tumultuous brush with Congress over forest reserves he himself did not even create, McKinley did not forego the opportunity to place his mark on the protected forested lands of America.

Presidents Harrison, Cleveland, and McKinley therefore all played a significant role in the early implementation of the Forest Reserve Act of 1891. They each brought millions of acres under the protective arm of the federal government, the first of their kind. They established a precedent for strong presidential action in the preservation of land at the national level. And it would be their immediate successor, Theodore Roosevelt, who would take that precedent to a whole new level. Inheriting the presidency from an assassinated William McKinley in 1901, Roosevelt had the difficult task of healing a nation, honoring the legacy of McKinley, and being his "own" president. From the beginning Roosevelt wanted to assuage the fears of those who had been concerned about placing him a "heartbeat away" from the presidential office. Yet

⁶⁶ Ise 128-129, Gifford Pinchot, *Breaking New Ground*, (Seattle: University of Washington Press, 1947): 113-119, Steen, *The Beginning of the National Forest System* 31-34, and Steen, *The U.S. Forest Service A History* 34-37.

⁶⁷ Hibbard 531, Ise 161, Steen, *The Beginning of the National Forest System* 31-34, and Steen, *The U.S. Forest Service A History* 34-37. See also Table I: National Forests (Newly Withdrawn Lands).

even this would not prevent the strong-minded and willed Roosevelt from being the president that he thought he should be; that which he believed the office demanded of him.⁶⁸ It was Roosevelt's conception of the presidency that would inform his environmental policy, and within that, his implementation of the Forest Reserve Act.

President Theodore Roosevelt saw himself as the true steward of the American people, and thus did not shy away from taking actions that he thought both represented the public's desires and what he thought was best for the public. As Roosevelt himself stated, "I acted for the public welfare, I acted for the common well-being of all our people, whenever and in whatever manner was necessary, unless prevented by direct constitutional or legislative prohibition." Out of this stewardship theory of the presidency, Roosevelt pursued a strong conservationist environmental policy. From the beginning of his administration, protection of forest land became an important piece of his overall approach to the environment. In his first annual message to Congress, Roosevelt made it very clear that as the people wished for forest preservation, he as their steward needed to take the lead.

Public opinion throughout the United States has moved steadily toward a just appreciation of the value of forests, whether planted or of natural growth. The great part played by them in the creation and maintenance of the national wealth is now more fully realized than ever before... The forest reserves should be set apart forever for the use and benefit of our people as a whole and not sacrificed to the shortsighted greed of a few.⁶⁹

Fortunately for the new president, Congress had provided the executive with the ability to do just as he wished, without the need of their approval. Thus with no real

⁶⁸ Douglas Brinkley, *The Wilderness Warrior Theodore Roosevelt and the Crusade for America*, (New York: Harper, 2009):396-397, 409-411, Lewis L. Gould, *The Presidency of Theodore Roosevelt*, (Lawrence, KS: University of Kansas Press, 1991): 16-18 and Nathan Miller, *Theodore Roosevelt*, (New York, NY: William Morrow and Company, Inc., 1992): 351-357.

⁶⁹ Theodore Roosevelt, "First Annual Message," December 3, 1901.

concern for presidential hesitancy or the primacy of Congress, Roosevelt embraced this power with abandon. In fact, his third and fourth presidential proclamations, only after those that announced the death of President McKinley and the celebration of the Thanksgiving holiday, established the San Isabel and San Rita Forest Reserves in Colorado and Arizona. Roosevelt established new reserves and reconfigured others on a fairly regular basis during his seven years in office. He worked closely with his friend and forestry expert, Gifford Pinchot, and the Division of Forestry to significantly increase the number of reserves during his tenure. Roosevelt also supported the transfer of the Division of Forestry from the Department of the Interior to the Department of Agriculture and the official creation an independent forestry agency, the Forest Service, in 1905. The agency assisted the president in the formation of national forests from 1905 onwards, and is still responsible for the management of the forest system today. By the time he left the presidency, Roosevelt contributed about 150 million acres and over 100 different reserves to the catalog of American national forests. In the end, it was his administration that produced the majority of the national forest system in the United States.⁷⁰ As a consequence, it should not be surprising that the biggest challenges to the presidential authority granted in the Forest Reserve Act occurred during the Roosevelt administration.

Thus Presidents Harrison, Cleveland, McKinley, and Roosevelt fully exercised the new power granted to them within the Forest Reserve Act. Had they not taken the actions that they did (and considering some of the political issues they faced this would

⁷⁰ Brinkley 422, 579, Frank Gregg, "Public Land Policy: Controversial Beginnings for the Third Century," in *Government and Environmental Politics*, ed. Michael J. Lacey, (Washington, D.C.: Woodrow Wilson Center Press, 1999): 144, Huffman 266-268, Char Miller, *Public Lands Public Debates A Century of Controversy*, (Corvallis, OR: Oregon State University Press, 2012): 118-119, Benjamin W. Redekop, "The Environmental Leadership of Theodore Roosevelt," in *Environmental Leadership: A Reference Handbook*, ed. Deborah Rigling Gallagher, (Thousand Oaks: Sage Publications, 2012): 4-5, and Theodore Roosevelt, *Theodore Roosevelt, An Autobiography*. New York, NY: Da Capo Press, 1941): 372-373, 420-421, quotation on 372. See also Table I: National Forests (Newly Withdrawn Lands).

not have been out of the question), the story of the presidency's role in public lands policy may have begun and ended in 1891. Yet they did not ignore the new power; they embraced it. This established not only a large portion of our national forest system, but a standard by which future presidents would judge their own use of similar powers in the creation of public land reserves.

Congressional Response: Failed Attempts and the Limitation of Presidential Power

The enthusiastic use of the Forest Reserve Act, especially by President Roosevelt, did not go unnoticed by members of Congress. Representatives of Western states particularly struggled with the consequences of presidential action, as designations only occurred in the West, where the majority of land still under the ownership of the federal government resided.⁷¹ As a consequence, Congress members introduced a fairly steady stream of bills challenging the presidential authority to create reserves from 1900 to 1907; with support for their efforts increasing as each year went by and more reserves formed.

Congressional Dissent Begins

In 1900 Representative Edgar Wilson and Representative Wesley Jones, of Idaho and Washington respectively, sponsored bills that made it impossible to establish reserves by executive fiat. In H.R. 7332, Representative Wilson sought to “prohibit the establishment or extension of the forest reserves in the States of Washington and Idaho except by act of Congress” as “no act of the Federal Government more directly affects or concerns the people with regard to the public domain than the creation of these reserves.

⁷¹ The majority of national forests were carved from Western lands since the Forest Reserve Act allowed only for the withdrawal of land already owned by the government and not the acquisition of lands from private hands. Consequently, reserves came from the Western states which still held large tracts of federally-owned land until the Weeks Act of 1911 in which Congress provided funds for purchasing private land for national forests, resulting in the formation of national forests in the eastern portion of the country. Only an act of Congress, however, could create a national forest from non-public land.

Yet they have had no voice in their establishment.” The bill’s House Report makes many claims to the unfairness of the forest reserves, continually highlighting the overzealous nature of executive decisions without regard for the “people” or their “representatives.”⁷²

H.R. 11357, proposed by Representative Wilson, broadened the idea proposed in H.R. 7332 by limiting establishment or extensions of forest reserves anywhere in the country to those by acts of Congress. It is clear from the committee report on the bill that the opposition was not to forest reserves generally, but to the manner in which they were founded:

Of the importance of these objects there is no doubt and no division. The only object of this bill is to change the method of creating forest reserves. At present they are created solely by Executive action. This bill provides that the people, through their representatives in Congress, shall hereafter establish these forest reserves and make extensions to existing reserves.

Wilson and Jones’ bills never made it out of committee in 1900, and thus inspired repeat attempts in the following year’s session with identical language. Unfortunately for the representatives, neither of the bills received enough support to make it out of committee again. In 1902, a new tactic emerged when the House Committee on Public Lands debated a bill that allowed for new reserves to be established only with the permission of the particular state’s governor.⁷³ Despite the commitment of representatives like Jones and Wilson, the presidential reservation power remained intact during these early years of the Roosevelt administration. However, the opposition would soon receive a boost from a newly minted senator with a strong conviction against the power to establish reserves.

⁷² *House Report No. 1986*, “Forest Reserves in the States of Washington and Idaho.” House Committee on Public Lands, 56th Congress, 1st Session, June 5, 1900: 1.

⁷³ *House Report No. 1985*, “Forest Reserves.” House Committee on Public Lands, 56th Congress, 1st Session, June 5, 1900: 1 and Ise 193-194.

Elected to the Senate in 1903, Weldon Brinton Heyburn of Idaho made opposition to the forest reserves his legislative crusade during his first few years in office. It is unclear as to whether or not this campaign stemmed from a hatred of presidential authority, or more from a personal animosity to President Roosevelt, but either way the representative did his best to remove the power of establishing reserves from the executive. He continually attacked the Forest Service while on the floor, and also in letters to the president and the head of the Forest Service, Gifford Pinchot. This debate between him and the administration became public knowledge when Pinchot, in a defensive maneuver, released some of the correspondence between them in a *Forest Bulletin*. Pinchot believed this public exposure would reduce the virulence with which Heyburn continually made his opinions known, yet the publication only seemed to encourage Heyburn's attacks.⁷⁴

Persistently fighting the establishment of new reserves, Heyburn even proposed bills regarding the forest reserves often just to provide the opportunity to show his disdain for them. In 1905, Heyburn proposed Senate Bill 1801 seeking to regulate the creation of forest reserves. In another instance, Heyburn offered a bill in 1906 which would give payment to states that had "lost" land once belonging to schools which had become parts of forest reserves. While the bill offered Heyburn's constituents repayment for the lands supposedly lost, its real purpose was to provide Heyburn with another opportunity to lament forest reserve formation by the president. Unfortunately for Senator Heyburn however, he found himself without much support from his fellow Western senators in these earliest attempts to reduce the power of the president. Many did not share the level of hatred for the reserves (even if they may have preferred that the land remain

⁷⁴ Ise 193-195 and Pinchot 301.

unpreserved for more prosperous opportunities for their states such as logging or development), and as a consequence, none of Heyburn's bills made it out of the Senate. In fact, he may have unintentionally created a few new defenders of the reserves thanks to his more intense tactics and vituperative rhetoric.⁷⁵ While his efforts did not immediately produce outcomes, Heyburn only needed to wait a short time to see his dream, at least in some sense, come to be.

Midnight Forest Reserves: Congressional Limitation Thwarted (In Part) by Executive Action

By 1907, opposition to the creation of forest reserves by the president became much more widespread than it had been in recent years, likely due to the extraordinary application of the power by President Roosevelt. Senator Charles Fulton of Oregon, an anti-conservationist and staunch opponent of the ever increasing forest reserves in the West, limited the Forest Reserve Act's presidential authority via the same method by which the original act had come into existence: he attached it to a bill that could not be ignored or left unsigned by the president. In the 1907 Fulton inserted an amendment to the agricultural appropriations bill's section on the U.S. Forest Service's budget appropriations: "That hereafter no forest reserve shall be created, nor shall any addition be made to one heretofore created, within the limits of the states of Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by act of Congress." With the ever exuberant use of the delegated power by Roosevelt, and the paralleled growth of anger by Western representatives as a whole, the inclusion of this declaration received little to no objection in Congress. At last, Congress had been able to greatly reduce the power of the president to establish new reserves by preventing designation in the six states with the

⁷⁵ Ise 193-195 and Pinchot 301.

largest proportion of federal lands for current and proposed reserves. This power would now only reside with Congress, where so many members now believed it should be.⁷⁶ It appeared as though the forest reserve opposition finally attained its goal.

Unfortunately for the supporters of the Fulton Amendment, presidential creation of forest reserves in those six Western states did not end there. When he received the agricultural appropriations bill of 1907 which included Fulton's amendment, President Roosevelt knew he must sign it into law. Yet he did not want to give up on creating forest reserves in the six states listed in Fulton's amendment. So what was his administration to do? As is custom with passed legislation, the president had February 25 to March 4th before he needed to sign the bill into law.⁷⁷ Could they not still preserve the land they wanted before the bill officially became law?

Fortunately for the president, the Forest Service, headed by Gifford Pinchot, had been developing lists of potential reserves ever since Roosevelt assumed the presidency. So Pinchot set to work, gathering together every able-minded and bodied member of his team to address the president's dilemma. Pinchot and his team toiled around the clock; working 24 and 48 hour shifts to determine what reserves they wanted to establish in what would soon become prohibited states. As each proclamation was drawn up, Pinchot hand delivered them to Roosevelt, who signed the documents and sent them to the State Department for safe keeping. Within a matter of days, Roosevelt, Pinchot, and dedicated staff established a total of 17 new or combined forest reserves, totaling a monumental 16 million acres. All the while, supporters of the Fulton Amendment slept soundly believing they had finally managed to prevent the president from taking any further action in their

⁷⁶ 34 Statute 1 (1907), Chap. 2907, pp. 1269-1271, Ise 199, Pinchot 300, and Williams 13-14.

⁷⁷ Constitution Article I, Section 7, Pinchot 300 and Williams 13.

states. With the last proclamation signed and stored away, President Roosevelt signed the Agricultural Appropriations Act into law. It would not be until all of this was done that members of Congress would discover Roosevelt and Pinchot's last minute actions, later aptly named, the "midnight reserves."⁷⁸

Thus in the end, despite all attempts to prevent it, the presidency created the majority of the national forest system that exists today. Unsurprisingly, Roosevelt and Pinchot's midnight actions angered Congress members as they essentially negated the intent of the Fulton Amendment. As Roosevelt described the response in his autobiography, "The opponents of the Forest Service turned handsprings in their wrath; and dire were their threats against the Executive; but the threats could not be carried out, and were really only a tribute to the efficiency of our action."⁷⁹ Expansion of the national forests may have been limited to Congressional action instead of executive energy, at least in some part, but the presidency had still managed to exert power even in the face of this challenge.

The Establishment of National Forests after 1907: Executive Action and Congressional Reassertion of Authority

Despite the passage of the Fulton Amendment in 1907, the president retained the power to form national forests outside of the six western states, and Congress delegated an additional acquisition authority to the executive branch. In 1911, Congress passed the Weeks Act, named for Republican Congressman John Weeks of Massachusetts, which granted the federal government the authority and funding to purchase lands for national forests in the Eastern states of the country. As highlighted above, much of the lands

⁷⁸ Roosevelt 419, Pinchot 300-301, and Williams 13-14. See also Table I: National Forests (Newly Withdrawn Lands).

⁷⁹ Roosevelt 419.

reserved for national forests came from the public domain, and since the majority of the public domain remained in the western portion of the country, the original national forests concentrated in the West. However, with the success of the established forests, members of the eastern United States sought similar federal protection of forested lands. Yet with little public domain left open in the East, the pattern of federal withdrawal in the West could not be reproduced.⁸⁰

Congress members thus proposed that the federal government be allowed to purchase forested land that helped to protect important watershed areas, under their authority to protect interstate commerce via navigable streams and rivers. Legislation regarding acquisition of eastern forests began to appear in 1901, but continued debate prevented it from passage until 1911 despite over 40 attempts. In the final act, a Forest Reserve Commission, consisting of the Secretary of War, the Secretary of the Interior, the Secretary of Agriculture, and two members of the Senate and House each, received the power to recommend lands for purchase by the federal government. Once the commission made its proposals to the Secretary of Agriculture, the Secretary could then use appropriated funds to acquire the land. Thus the power to create national forests in the eastern portion of the country rests primarily with the executive branch, not Congress.⁸¹

The final act of national forest establishment authority came in the year 1976. The Federal Land Policy and Management Act, which sought to centralize and redistribute power over federal lands from the executive to the legislative branch, included a number of measures repealing the power of the executive in land policy. The

⁸⁰ Dana 183-185, and Zasklowsky and Watkins 76-78.

⁸¹ Act of Mar. 1, 1911, Ch. 186, 36 Stat. 961, Dana 183-185, Zasklowsky and Watkins 76-78.

law included the Forest Reserve Act of 1891 on that list, meaning that all decisions for future national forests rested with Congress. Thus the president could no longer claim direct establishment authority when it came to national forests.⁸²

While these developments continually led to the restoration of power in federal forest creation to Congress since 1907, it can still easily be claimed that the presidency played the primary role in the formation of America's National Forest System. All of the actions taken since the Fulton Amendment of 1907 slowly chipped away at the presidency's authority; but that is the key point: they have done so in small steps and slowly. These actions by Congress also occurred after the majority of the national forest system had already been established by the presidency. The efforts only diluted future attempts at further extending the system by purely presidential action, and only finally removed the power completely from the president 85 years later. Considering that there were over 172 million acres of national forests established by the end of Theodore Roosevelt's administration in 1909, and the most recent total national forest acreage was over just over 188 million acres, the impact of the presidency overwhelming dominates any subsequent Congressional action.⁸³

National Forests and Congressional Acceptance: Delegation, Allowance and Limitation

Thus the majority of the national forest system, as we know it today, is the direct outcome of the eager employment of Congressionally-delegated powers by presidents

⁸² The Federal Land Policy and Management Act, Pub. L. No. 94-579, 90 Stat. 2743 (1976).

⁸³ It should be noted that the total number of acres in the National Forest System has increased and decreased with the acquisition and disposal of lands throughout the years. Changing borders through additions and dispositions, often to the states where the land is located, account for these adjustments. *Establishment and Modification of National Forest Boundaries and National Grasslands A Chronological Record 1891-2012* Compiled by the Lands Staff, (Washington D.C.: United States Government, 2012): I, and United States Forest Service, *Land Areas of the National Forest System As of September 30, 2011*, (Washington, D.C.: USDA Forest Service, 2012): 243.

from 1891-1907. The passage and use of the Forest Reserve Act established two importance precedents for presidential power in public land policy. One, Congress delegated the direct power to the executive, thus endorsing an active role for the president in the policy realm. Two, the presidents able to first implement the Forest Reserve Act not only did so, but did so at an impressive rate and in spite of political pressures from Congress. Engagement from local and governmental interests helped to spur this continued implementation by the presidents, ensuring the Forest Reserve Act's significance to the presidency. It is impressive that the majority of our National Forest System came from executive orders of four presidents over the span of 18 years.

By taking advantage of the discretion within the law, these foundational actions made future applications of public land power by the president acceptable. The executive power of the Forest Reserve Act may have been diminished in 1907 and repealed in 1976, but its significance as a standard bearer in terms of presidential power had already been established. Congress' reactions to the use of the act also foreshadowed future power struggles between the two institutions over public lands policy.

As the following chapters will show, this is only the first example of an area of land preservation policy, by its very nature domestic, where the presidency had an incredible impact due to the combined effects of presidential and Congressional actions. The following analysis of the relevant Congressional acceptance categories highlight these effects and the particular ways in which this precedential case contributed to the development of presidential power.

Chart I: National Forests and Congressional Acceptance

	Delegation	Allowance	Emulation	Limitation
National Forests	✓	✓		✓
National Wildlife Refuges	✓	✓	✓	
National Monuments	✓	✓	✓	✓
National Parks	(✓)	(✓)	(✓)	(✓)
National Wilderness Areas	(✓)	(✓)	(✓)	(✓)

✓ = presence of Congressional acceptance category

(✓) = echoed presence Congressional acceptance category

The first category of acceptance in regards to the forest reserves is, obviously, delegation. The Forest Reserve Act provided the president with a flexible authority to withdraw public land for forestry purposes. As is evident by the discussion above, the Forest Reserve Act was also remarkable as it was one of the first actions in the United States to remove the potential for private settlement upon tracts of public land; almost all legislation prior to this point encouraged private purchase and development of the government's land. Prior to the passage of this act, only the establishment of Yellowstone National Park produced reserved federal land, and that had been accomplished by an act of Congress.⁸⁴ The Forest Reserve Act is thus the first opportunity for the presidency to take unilateral action in the realm of land preservation, itself a new concept. Hence the delegation by Congress of this power had no apparent precedent, instead *creating precedent* for similar delegation and assumption of power by the presidency in the future.

Secondly, Congressional allowed presidential action in the case of national forest. As Presidents Harrison, Cleveland, McKinley, and Roosevelt took their new power out for a spin, Congress, for the most part, allowed them to do so. The striking approach to

⁸⁴ Zaslowky and Watkins 16-19.

preservation taken by these presidents, as covered in this chapter, need not be repeated here. Yet it is their willingness to preserve millions of acres that makes this story so crucial. Had the Forest Reserve Act simply been used here and there, with smaller reservations established and deference to Congressional support for specific reserves granted, then the role it played in transforming presidential power would be quite minimal. Instead we see presidents realizing the potential of this power to a great extent, and one could even argue for the time, its fullest extent possible. All the while, Congress did not seriously attempt to revoke the power granted to the president, nor did they reverse any of the actions taken by the executive. Yes there were some passionate attempts by those particularly afflicted, but these efforts died in committee for lack of widespread support due to the localized nature of the reserves. Some of these attempts even helped to create defenders for the reserves in the West. Congress could not even muster enough support to reverse Cleveland's "birthday" reserves despite their strong opposition. Hence, Congress as an institution willingly allowed for the continued application of the delegated presidential power in this realm.

The third and final category of Congressional acceptance in the case of national forests is limitation. The ultimate limitation came from the amendment placed in the 1907 appropriations bill which removed the power of the presidency to establish forest reserves in six key western states. In a nutshell, it tried to prevent the president from withdrawing public land in the West in the future, redirecting that power instead to Congress. Taken at face value, this limitation is successful. By passing this legislation, Congress had been able to finally codify its discontent over the use of power by the president and regain some control of this particular policy area. However, President

Roosevelt managed to take most of the sting out of this Congressional action by quickly creating all of the proposed forest reserves meant for those six states while he still had the power to do so. And in the end, Congress did not even repeal these midnight actions by Roosevelt, further proof that their re-exertion of power fell flat in the end. It would not be until many years later, in 1976, that a full repeal of the president's power to form national forests came to be. Yet by this point, and even by 1907, the majority of the national forest lands existed thanks to execution of the Forest Reserve Act's presidential authority.

So while Congress diminished the president's power to establish forest reserves in 1907 and fully removed it in 1976, the delegated authority created a strong precedent for presidential power from its inception and first implementation in 1891. The Forest Reserve Act's power laid the foundation for both future delegation and exertion of presidential authority in land preservation policy. The two major successors of presidential power in land preservation, feeding off of this new precedent, came into being within fifteen years of 1891, and are the subjects of the next two chapters: national wildlife refuges and national monuments.

CHAPTER III: NATIONAL WILDLIFE REFUGES

The national wildlife refuges are the second type of land reservation in this analysis of presidential power development. As seen in Chapter II, with the passage of the Forest Reserve Act in 1891, Congress granted the presidency the ability to create forest reserves by withdrawing federally owned lands from development. The authority to do so laid the foundation for future land withdrawals by the executive. By the year 1903 when the first national wildlife refuge formed, the presidency had wielded the power of forest establishment for twelve years. Presidents Harrison, Cleveland, and McKinley established numerous reserves during each of their respective terms in office. With the assassination of President McKinley in 1901, President Theodore Roosevelt gained the opportunity to do the same, and he did. Yet little did anyone know, including Roosevelt himself, that his public lands legacy would include creating an entirely new category of land preservation: the national wildlife refuge.

Thus the beginning of the national wildlife refuges had quite an auspicious start. For unlike the precedential forest reserves, Congress did not delegate the power to establish the refuges in 1903. In fact, the idea only originated when a sympathetic President Roosevelt answered a plea from wildlife protection interests to protect a critical bird habitat on an island in Florida. So instead of the pattern seen in the case of the forest reserves, where Congressional delegation led to presidential action and then Congressional response, we see a simpler pattern of initial presidential action and then Congressional response in the case of the national wildlife refuges. Additionally and rather surprisingly, the Congressional response to wildlife refuges followed a pattern of continued support for an idea imagined and implemented within the walls of the White House, rather than the Capitol.

In order to understand how the executive came to play the primary role in the creation of the refuges over time, the chapter traces the distinctive development of the National Wildlife Refuge System and the roles of the presidency and Congress within it. The first section explains how the idea of federally protected lands for wildlife emerged, who the major players in making this a concern of the national government were, and how the case set the precedent for continued presidential dominance in the establishment of national wildlife refuges until mid-century.

The second section examines Congress' role over time in terms of the refuge system. The first part of this section shows how Congress followed in the footsteps of the presidency and created a number of wildlife reserves from 1905 onwards. The second part of the section surveys Congressional statutes that eventually shifted the establishment power from the president specifically to the executive branch more generally, ensuring continued refuge formation through its many supportive statutes. Finally, the third section analyzes the overall pattern of reserve establishment in order to demonstrate the dominant role of the executive in creating refuges; due to both presidential unilateral action and Congressional acceptance. The presidential-Congressional power dynamic seen in this case builds upon the precedent formed with the national forests, and thus furthers the strong, prevailing role of the presidency in this policy realm.

Presidential Action: Initiating Wildlife Protection in America

The Nation's First Wildlife Refuge? An Early Precedent

Unlike the national forests, the origination of the National Wildlife Refuge System started with presidential action. Here we do not see the same clamoring for

Congressional action. We do not see numerous attempts by Congress members to push through legislation that allows for the establishment of reservations for wildlife protection. Instead, we see presidential initiative, pure and simple. Due to the almost hidden and unceremonious beginning of the national wildlife refuges, it is surprising that we do not find much in the way of a formal Congressional challenge to executive action throughout the history of refuge establishment.⁸⁵

Pinpointing the “first” national wildlife refuge is not a simple and clear task. The refuge often regarded as the official “first” is Pelican Island National Wildlife Refuge in Florida. However, there is one other location that could be considered the “first” refuge, if in an unofficial capacity. In 1892, President Benjamin Harrison set aside Afognak Island in Alaska as a forest reserve, or national forest. Harrison used the authority granted to the president by the Forest Reserve Act of 1891 to establish Afognak Island. As seen in Chapter II, forested lands were withdrawn from existing public lands owned by the federal government. The main reasons for establishing forest reserves were the protection of timber supplies and important watersheds, allowing for the continued growth of forests into the future.⁸⁶ Yet in President Harrison’s proclamation creating the Afognak Island Refuge, he included the following purpose:

⁸⁵ This is not to claim that no challenge, especially from local concern or outrage, ever developed due to the establishment of a wildlife refuge, which then inspired Congressional action. Over the years refuges have been discontinued or modified, but such changes have been rather rare for such a large system. The main reasoning behind these discontinuations has been the level of usefulness of the land set aside, with some refuges serving their purposes so well they were no longer needed. So while individual challenges may have occurred, no concerted effort, like the removal of the power to designate reserves similar to that done with the national forests, exists.

Philip A. Dumont and Henry W. Thomas, *Modification of National Wildlife Refuges*, U.S. Fish and Wildlife Service, (Washington, D.C.: U.S. Fish and Wildlife Service, 1975): 2-3.

⁸⁶ Richard N. L. Andrews, *Managing the Environment, Managing Ourselves A History of American Environmental Policy*, (New Haven, CT: Yale University Press, 1999): 104-105, Robert Fischman, *The National Wildlife Refuges Coordinating a Conservation System through Law*, (Washington, D.C.: Island Press, 2003): 34 and Samuel P. Hays, *The American People and the National Forests*, (Pittsburgh, PA: University of Pittsburgh Press, 2009): 2-3.

Whereas the public lands in the Territory of Alaska known as Afognak Island are in part covered with timber and are required for public purposes in order that salmon fisheries in the waters of the island, and salmon and other fish and sea animals, and other animals and birds, and the timber, undergrowth, grass, moss, and other growth in, on, and about said island may be protected and preserved unimpaired, and it appears that the public good would be promoted by setting apart and reserving said lands as a public reservation.⁸⁷

This unusual inclusion by President Harrison expanded upon the power granted to the presidency in the Forest Reserve Act. The original authorizing legislation does not include wildlife protection as a justification for the establishment of forest reserves.⁸⁸ Incorporating this language into the presidential proclamation made Afognak Island the first *unofficial* wildlife refuge, and serves in some respects as a precedent for future, unauthorized presidential action. No challenge to Harrison's action by Congress exists, and the proclamation and purposes of Afognak Island remain intact.⁸⁹ Harrison's action even foreshadows later Congressional delegation to the executive to establish wildlife refuge areas within the national forests.⁹⁰ So while Harrison rarely receives credit for his recognition of the importance of wildlife protection, his action set the stage for the president who would take even bolder action, and receive the credit for it: Theodore Roosevelt.

The Beginning of the National Wildlife Refuges: Fashion, Feathers, and Executive Power

The fact that President Theodore Roosevelt created the first national wildlife refuge is perhaps not surprising given his well-known interest in the environment and conservation. What should be surprising however is the fact that Roosevelt's creation of

⁸⁷ Proclamation No. 343, (December 24, 1892).

⁸⁸ Section 24, General Land Law Revision Act of 1891, 26 Stat. 1103 (1891).

⁸⁹ Robert L. Fischman, "The National Wildlife Refuge System and the Hallmarks of Modern Organic Legislation," *Ecology Law Quarterly*, 29, (2002): 470-471 and Dyan Zaslowsky and T.H. Watkins, *These American Lands Parks, Wilderness, and the Public Lands*, (Washington, D.C.: Island Press, 1994): 286.

⁹⁰ See "Congressional Response" section below.

the first refuge was not an exercise of granted power, whether from Congress, or (at least directly) from the Constitution. President Roosevelt's decision to establish Pelican Island as a reserve for birds can only be described as extrapolated presidential power.

Therefore, the situation surrounding the formation of our nation's first wildlife refuge is of particular importance, as it is possible that without the specific actors involved, this part of the American public land system may never have existed, or at least would have come into existence at a different time and place.

The story of Pelican Island starts with something rarely discussed in conjunction with public land policy: women's fashion. In the earliest years of the 1900s, the use of bird feathers in decorative hats and head pieces became a widely prevalent fashion trend in the United States. The popularity of these adornments created an extremely high demand for genuine bird feathers, and consequently an incredibly lucrative business for hunters of plumes. One estimate placed the value of one pound of wings from roseate spoonbills or great white herons at over a pound in gold. "The demand for beautifully adorned hats fueled an entire industry. By 1900 millinery companies employed around 83,000 Americans, mainly women, to trim bonnets and make sprays of feathers known as aigrettes." This new trend became so widespread due to the explosion of women's fashion magazines which gained substantial ground and influence in the United States at the time. All of these factors led to the decimation and destruction of related bird populations in highly populated areas, like that on Pelican Island in Florida. The situation became so critical that the curator of ornithology and mammalogy at the American Museum of Natural History in New York, Frank M. Chapman, went on a speaking tour throughout New York to try and convince women of the harm of their

fashion choices. Unfortunately for Chapman, these particular efforts did not yield many results; the pull of fashion trumped impassioned speeches.⁹¹

Thus Chapman, and others who joined in the effort to protect the newly endangered bird populations, sought alternative options to cease the continued destruction. One option centered upon the protection of lands with high concentrations of the desired birds, like Pelican Island in Florida. Pelican Island created an ideal habitat for egrets, herons, and brown pelicans due to its dense population of black mangroves and its location along the north to south Atlantic flyway. Thanks to these conditions, birds flourished in great numbers, luring hunters to the island's shores to perpetrate mass killings of these feathered creatures. The American Ornithologist Union (AOU), an organization founded in 1883 which "developed out of concern for bird conservation and interest in developing the field of ornithology in America," was particularly alarmed about the conditions on Pelican Island.⁹² They believed that without intervention, the island's collection of birds would cease to exist.

In past instances of endangered bird populations, the AOU privately purchased necessary lands to create safe havens for animals. Thus the organization tried to do the same with Pelican Island, and sought to acquire the land in order to protect it. However, Pelican Island presented a key difference from AOU's past procurements in one important way: its owner was the federal government. At the time, land regulations mandated that any federally owned land needed to be surveyed by the General Land Office (GLO) prior to it being sold. The Union consequently petitioned to have the

⁹¹ Douglas Brinkley, *The Wilderness Warrior Theodore Roosevelt and the Crusade for America*, (New York: Harper, 2009):10-11, quotation on 10, Nathaniel P. Reed, and Dennis Drabelle, *The United States Fish and Wildlife Service*, (Boulder, CO: Westview Press, 1984): 3-4, and Randall K. Wilson, *America's Public Lands*, (New York: Rowman & Littlefield, 2014): 153-154.

⁹² "About the American Ornithologists' Union," American Ornithologist Union, Available: <http://www.americanornithology.org/content/american-ornithologists-union>.

island surveyed and thus available for sale. Yet as the petition for survey went through the regulation channels, the Union discovered that once the island became available for acquisition, primary purchasing rights would be granted to settlers, not protectors. Hence it quickly became clear that the AOU's actions would most likely lead to the opposite of its intentions: private individual ownership and most likely, no protection for the birds and their habitat.⁹³

Stuck in between a rock and a hard place, the supporters of Pelican Island decided to reach out to the Roosevelt administration for assistance. Since the federal government owned the island, working directly with executive officials represented the advocates' last best hope. The AOU managed to schedule a meeting with the newly appointed commissioner of the GLO, William A. Richards. During the meeting, members of the Union explained their position on Pelican Island and the fear that opening it up for private sale would mean the loss of its natural contributions to the country. Richards, a sympathetic listener, called his chief of Public Surveys, Charles L. Dubois, to see if anything could be done to prevent the inevitable destruction of Pelican Island. Dubois at first stated that no solution existed, but then suggested, as a long shot, that the president could establish the island as a federal reservation. With this last chance effort in mind, the AOU asked Frank Chapman to seek help directly from the president.⁹⁴

As discussed above, Chapman served as a director at the Museum of Natural History; which in 1869 Theodore Roosevelt Sr. cofounded. Due to Chapman's closeness with Theodore Roosevelt Sr., Theodore Roosevelt Jr. thus knew Chapman quite well, and

⁹³ Brinkley 12-13 and Zaslowsky and Watkins 164-165.

⁹⁴ Brinkley 13-14 and Robert L. Fischman, "The Significance of National Wildlife Refuges in the Development of U.S. Conservation Policy," *Journal of Land Use & Environmental Law*, 21, 1 (Fall 2005): 9-11.

followed the progression of his career in ornithology with much interest. Chapman, on the other hand, knew of Roosevelt's own proclivity for nature and wildlife, especially for birds. Roosevelt's interest in birdlife was much more than a hobby; indeed, it was a passion to match that of any other dedicated conservationist. Roosevelt's vast knowledge of birds and their habitats in the United States began from a young age and only continued to grow with each passing year. While Roosevelt was indeed an enthusiastic hunter, he also appreciated and understood the need for protection of birds not meant to be consumed.⁹⁵ The happy coincidence then of Roosevelt and Chapman's relationship provided the Pelican Island champions with the outlet needed to gain an audience with the President of the United States himself.

A few weeks after their meeting with the GLO, Chapman and the AOU met with Roosevelt in his White House office. Explaining the Pelican Island situation to the president, they petitioned him to set aside the island as a federal reservation. Without hesitation, Roosevelt determined he would do just that. Consulting his counsel, Roosevelt inquired whether or not there was a law against the president taking such an action. While the president's counsel stressed that no direct authority existed upon which the president can pull, he also stated that no law existed preventing Roosevelt from doing so after further inquisition by the president. At this, Roosevelt stated "I so declare it," and created the first national refuge for the protection of wildlife.⁹⁶

Roosevelt's action is incredibly important not only for the eventual creation of a national wildlife refuge system, but in the role of presidential power in public land policy.

⁹⁵ Brinkley 1-2, 6-7, 12-14, Reed and Drabelle 6-7, and Zaslowsky and Watkins 165.

⁹⁶ Brinkley 14 and Cam Tredennick, "The National Wildlife Refuge System Improvement Act of 1997: Defining the National Wildlife Refuge System for the Twenty-First Century," *Fordham Environmental Law Journal*, 12, (2000):42.

Roosevelt's decision to establish Pelican Island as a reservation fits in with his overall understanding of the presidency as a representative of the American people's best interests. Like his enthusiastic establishment of one forest reserve after another, TR's proclamation to protect Pelican Island set a precedent for unauthorized presidential action that continued unabated for years and remains intact through present day. Yet Roosevelt's action in creating Pelican Island differs from his overabundant creation of forest reserves in that he did not draw upon a Congressionally-delegated power like that seen in the Forest Reserve Act. No Wildlife Refuge Act of 1903 existed; just a decision and the assertion that the decision was not, in fact, illegal. In many ways, the existence of one of America's largest public land systems, the National Wildlife Refuge System, hinged upon Roosevelt's commitment to nature, his understanding of the president as a steward of the American people, and his willingness to act without formal permission.

Unsurprisingly, President Roosevelt did not stop at one refuge. With the successful establishment of Pelican Island, organizations dedicated to the protection of critical bird habitats began to seek out other federally owned lands for preservation status. National government ownership of the lands made it easier for supporters to advocate for federal government action. For the members of these bird societies and wildlife advocates broadly, Roosevelt became a hero. During Roosevelt's time in office he created 52 refuges, primarily for the protection of bird populations, with 27 established in 1909 alone. Many of the earliest reservations were small in size, similar to Pelican Island, but larger refuges became par for the course starting in 1908. While the protection of specific bird species remained the primary justification for refuge establishment during Roosevelt's terms, the need for protection of game also became a

valid reason for refuge creation by the end of his time in office. This development broadened the pool of accepted purposes for refuges, allowing for future expansions, such as the inclusion of plant life protection.⁹⁷

What is particularly important from the standpoint of public land policy is that while each of these refuges provided federal protection to wildlife, the orders *withdrew specific tracts of land* to do so. Therefore, while safeguarding certain wildlife groups constituted the justification for the formation of refuges, the importance of habitat *led to the need for, and focus upon, land preservation* in the creation of wildlife refuges. Thus the Roosevelt administration left a lasting legacy and precedent for successive presidential administrations in terms of public land reservations. Roosevelt's own words capture the magnitude of his actions in regards to wildlife in the United States:

Even more important was the taking of steps to preserve from destruction beautiful and wonderful wild creatures whose existence was threatened by greed and wantonness. During the seven and a half years closing on March 4, 1909, more was accomplished for the protection of wild life in the United States than during all the previous years, excepting only the creation of the Yellowstone National Park.⁹⁸

After the First Refuges: Use of Executive Orders by Administration

Without a doubt the Roosevelt administration laid the foundation for future establishment of national wildlife refuges. Each of the presidents following Theodore Roosevelt took advantage of his initiative and created national wildlife refuges without exception. The number of refuges created by presidents varies, with some years seeing numerous additions, and others seeing none at all. The pattern of refuge establishment by

⁹⁷ Endangered Species Act of 1973, 16 U.S.C. 1531-1544 (1973), Richard J. Fink, "The National Wildlife Refuges: Theory, Practice, and Prospect," *Harvard Law Review*, 18, 1 (1994):13-14, Fischman *The National Wildlife Refuges Coordinating a Conservation System through Law* 35, 82-84 and Ira N. Gabrielson, *Wildlife Refuges*, (New York: MacMillan Company, 1943): 11. See also, Table IV: National Wildlife Refuges.

⁹⁸ Theodore Roosevelt, *Theodore Roosevelt, An Autobiography*, (New York, NY: Da Capo Press, 1941): 434-435.

executive order continued for years, until the early 1940s when the primary method of creation shifted to administrative directives. Up until this point however, the president was directly responsible for the formation of the majority of new refuges.⁹⁹

President Taft set aside eleven reservations during his time in office. His successor, Woodrow Wilson, established 9 refuges. Wilson's pattern of establishment exhibits a large gap during the years of 1916-1920, the longest time period to see no new refuges since Pelican Island in 1903. Considering this coincides with the American entry and participation in WWI, this gap is not altogether shocking. Despite his short duration in office, President Warren Harding managed to set aside six reservations. His vice president and successor, Calvin Coolidge, created 11 reserves.¹⁰⁰

Perhaps surprisingly, Herbert Hoover designated 18 refuges while president, even shortly after the stock market crash of 1929 with the creation of Benton Lake National Wildlife Refuge on November 21, 1929. With the country in the immediate throws of the crash and heading into an economic depression, it would be understandable to see another break in the development of refuges. Yet President Hoover issued 3 executive orders in 1930, 5 in 1931, 5 in 1932, and 1 in 1933 on March 3, his last day in office. In 1933, Hoover handed the presidency and the country's problems over to Franklin Delano Roosevelt, and the second Roosevelt would not only learn from his predecessors' examples, but make them proud. In the twelve years FDR served as president, he created an impressive 145 wildlife refuges, with a number of years serving as "banner" years for the development of the national system of wildlife protection. For example, in 1939,

⁹⁹ A select number of refuges created during this period came to be via legislation. See the Congressional section below to learn more about exceptions to the overall pattern. Additionally, beginning in the mid-1930s, some refuges were established via the authority granted to a mixed executive-Congressional commission by Congress in 1934. See the section entitled "A Congressional-Agency Shared Approach for the Protection of Migratory Birds" below.

¹⁰⁰ Table IV: National Wildlife Refuges.

Roosevelt reserved 49 different parcels of public land for wildlife, 38 of which were in the state of North Dakota.¹⁰¹

This brief review of the establishment of the first national wildlife refuges clearly portrays the importance of unilateral executive action to the very existence of a system intended for the care and protection of wildlife in the United States. Without these actions, the National Wildlife Refuge System would not be what it is today.

Additionally, it is just as important to note the widespread and consistent use of this power by every president from Theodore Roosevelt to Franklin Roosevelt. Despite the current national situation, political affiliation, or view of the presidency, each of the offices holders created reservations via unilateral, formal action. In a time period where the presidency is seen as weaker, and only slowly developing into the “modern” presidency known today, it is of significance that president after president chose to use this non-delegated executive power.

More than Just Orders: Key Executive Actions

Beyond the creation of refuges by executive order, three additional presidential actions proved critical to the development of wildlife reserve establishment methods: the first executive order incorporating Congressional authority, federal governmental reorganizational plans, and most importantly, the granting of power to the Secretary of the Interior to authorize new wildlife reservations. Firstly, during the three years of 1912-1914, legislation passed by Congress and an executive order issued by the president created a national refuge for winter elk in the state of Wyoming.¹⁰² The executive order issued by President Woodrow Wilson is an important precedent in two ways. One, the

¹⁰¹ Table IV: National Wildlife Refuges.

¹⁰² The law required the president to issue an executive order to formally establish the elk refuge. See below for more on Congressionally legislated refuges.

term “refuge” is implemented in this order for the first time. Prior to this particular executive order, most of the designations had used the term “reservation” when referring to the lands set aside for wildlife. The use of “reservation” prior to “refuge” stemmed from the term “reserve,” as in the forest reserves created under the authority of the Forest Reserve Act until 1907 when the official terminology changed to national forests. The use of “reserve” for wildlife protection units made sense since wildlife refuges consisted of public land withdrawn for a specific purpose, like their forest counterparts.¹⁰³ However, with the initiation of “refuge,” it can be argued that Wilson intended to highlight the significance not only of the withdrawal of land, but of its particular purpose for wildlife: their protection.

Two, Wilson’s executive order referred to a congressionally-delegated power to the president as the justification to withdraw lands from public use. Similar to the language seen in the establishment of forest reserves which stood upon the delegated authority of the Forest Reserve Act, Wilson used the power directed to the president in what is commonly known as the Pickett Act. The Pickett Act of June 25, 1910 provided a general grant of authority to set aside lands for consideration. These lands were then studied and classified to determine whether they should become protected, withdrawn parcels. Wilson’s decision to include this reference not only provided more support for his action, but set a precedent for future presidents to refer to statutory authorities in their refuge establishment documents.¹⁰⁴

¹⁰³ Fischman *The National Wildlife Refuges Coordinating a Conservation System through Law* 168.

¹⁰⁴ In 1976, the Federal Land Policy and Management Act (FLPMA) required presidents to rely on statutory authority for executive orders creating national wildlife refuges. The FLPMA also withdrew the power granted to the president in the Pickett Act, one of many public land withdrawal measures removed from presidential authority within the act. For more on the impact of this act, see the subsection “No Challenge: The Federal Land Policy and Management Act of 1976” below.

Secondly, in addition to a large number of refuges created during his time in office, Franklin Roosevelt's reorganization of the federal government led to changes in the agencies associated with wildlife protection. These alterations not only impacted the manner in which reserves were managed, but also in the authority granted to them to establish new refuges. In 1939, Roosevelt issued Reorganization Plan No. 2, which transferred the Bureau of Fisheries and the Bureau of Biological Survey to the Department of the Interior, now the umbrella department of the current U.S. Fish and Wildlife Service. This transfer included such secretarial functions as the protection of "fur seals and other fur-bearing animals" from the Secretary of Commerce and the "conservation of wildlife, game, and migratory birds" from the Secretary of Agriculture.¹⁰⁵

In 1940, Reorganization Plan No. 3 combined the Bureau of Fisheries and the Bureau of the Biological Survey into a new agency, the Fish and Wildlife Service. The Secretary of the Interior and no more than two assistant directors managed the new agency.¹⁰⁶ The creation of this agency solidified the important role of the executive branch in the formation and maintenance of the lands dedicated to wildlife protection in America. Also in 1940, Roosevelt issued Proclamation 2416 to rename 200 wildlife protection units under the same term: "national wildlife refuges." This is the first attempt to consolidate the many different reserves, reservations, and refuges under one umbrella

Act of June 25, 1910, ch. 421, § 1, 36 Stat. 847 (1910), Federal Land Policy and Management Act of 1976, 43 U.S.C. 35 (1976), Fischman *The National Wildlife Refuges Coordinating a Conservation System through Law* 169, and Paul W. Gates, *History of Public Land Law Development*, (Washington, D.C.: Public Land Law Commission, 1968): 733-736.

¹⁰⁵ Reorganization Plan No. 2 of 1939.

¹⁰⁶ Reorganization Plan No. 3 of 1940.

term. These newly christened refuges would later officially become part of the National Wildlife Refuge System.¹⁰⁷

Thirdly, during the later 1930s and early 1940s, the direct involvement of the presidency in the creation of wildlife refuges began to wane. The consistent primary method of establishment, the executive order, became a rarity starting in 1943. The quick drop off of executive orders is rather abrupt and strange considering it occurred mid-term of the second Roosevelt administration.¹⁰⁸ One may assume that a Congressional challenge, via a new law or policy, altered the rate of executive order usage. Instead, a presidential action caused this about-face. In 1942, President Roosevelt issued Executive Order 9146 which transferred presidential power to authorize public land withdrawals and reserves to the Secretary of the Interior. As stated in the order, the president “...hereby authorize(s) the Secretary of the Interior to sign all orders withdrawing or reserving public lands of the United States, and all orders revoking or modifying such orders.” Through this action, the Department of Interior and its land preservation agencies instituted public land orders, which became the mechanism by which to exercise this granted power.¹⁰⁹ This executive direction by Roosevelt thus provided the impetus for executive agency-created refuges. So when Congress delegated power to executive branch agencies in the years that followed, helping to further engrain the authority in the executive branch, it followed in the footsteps of the presidency when doing so. Essentially Congress did not determine the shift from primarily presidential to administrative instruments of establishment, but the presidency did.

¹⁰⁷ Proclamation No. 2416 (July 30, 1940) and Fischman *The National Wildlife Refuges Coordinating a Conservation System through Law* 168.

¹⁰⁸ See Table IV: National Wildlife Refuges.

¹⁰⁹ Exec. Order 9146 (1942) and Dumont and Thomas 1.

So in place of the executive order, administrative agency procedures became the primary mechanisms of refuge establishment. Most of these methods derived in some manner from delegated powers granted by Congress in a long list of related statutes passed during the second half of the 20th century. These authorities therefore became the basis from which new refuges derived, rather than inherent presidential power via executive order. However, the use of executive orders, presidential proclamations, and organizational plans truly founded and instituted federal public lands for wildlife protection in the United States.

Congressional Response: Acceptance Every Step of the Way

The “response” from Congress regarding the use of presidential power to establish national wildlife refuges from 1903 onwards can only be described as acquiescent and supportive. Based on Congressional action, we see the legislative body essentially hopping on the bandwagon to protect the nation’s animals, and later, plants. The earliest examples of Congressional participation include further delegation of establishment power to the president and the creation of a few specific refuges via particular laws. From there, Congressional action concentrates in laws that provide further authority to pertinent administrative agencies to create new refuges under broad conservationist goals. Interspersed throughout the development of the National Wildlife Refuge System, Congress continues to exercise the power of establishment, through present day. Additionally, unlike the Forest Reserve Act, Congress never removed the power of the president to create refuges. The following sections cover Congress’ own particular refuge designations and its numerous grants of authority to the executive, writ large.

Congress Joins In: Emulation and Delegation in the Early Congressional Wildlife Refuges

Congress' participation in the development of national wildlife refuges began in 1903, and continues through to the present day. When President Roosevelt established Pelican Island as the first reserve for birds in the United States, Congress did not attempt to override his executive action.¹¹⁰ In fact, less than two years later in 1905, Congress joined in and passed legislation for the Wichita Mountains Wildlife Refuge to preserve the American bison and Texas longhorn.

The Wichita Mountains Wildlife Refuge marks the first of five reserves designated by Congress in the first quarter of the 20th century. Each of these refuges played an important role in forming the concept of national wildlife refuges and their purposes in America. The law establishing the Wichita Mountains refuge, the first wildlife refuge created by law, interestingly provides the president with the authority to set aside the land, rather than specifying the refuge's limits within the statute's language. So instead of making the refuge a purely Congressional entity by actually setting aside specific lands, Congress granted this authority and responsibility to the president. This provision may have been included due to the fact that, according to the House and Senate reports on the bill, Congress formed the refuge based upon the recommendation of President Roosevelt, who discussed the importance of protecting wildlife in his first annual message to Congress. However, Roosevelt did not specifically ask that the power to protect wildlife be given the presidency, but rather called for general legislation aimed

¹¹⁰ Tredennick 42-43, see especially footnote 4.

at protecting animals within national forests.¹¹¹ Thus instead of exercising the power to fully form the Wichita reserve, Congress delegated it to the executive.

The second instance of Congressional action closely followed the example set by the Wichita Mountains refuge. In 1906, Congress passed a near identical bill to that creating Wichita Mountains to establish the Grand Canyon Wildlife Refuge. In Roosevelt's annual message of 1905, he asked that the land surrounding the canyon be designated as a national park, but Congress never acted upon the suggestion. Instead, Congress passed the 1906 law allowing for increased protection of the Grand Canyon National Forest by allowing for the protection of wildlife. Mirroring the language in the Wichita Mountains statute, the power to determine where and how the wildlife would be protected fell to the president. Once again, the House and Senate Reports for the bill, state that recommendations from Roosevelt inspired the decision to create the wildlife refuge. However, in this instance Roosevelt specifically asked for presidential authority to set aside lands for animal protection within the forest reserves. Thus we see a more direct role for Roosevelt in calling for delegated executive power in this second wildlife refuge designated by law.¹¹²

So for the first two Congressional wildlife reserves, the presidency still played a major role. In both instances, recommendations from Roosevelt influenced each house of Congress to take action. However, despite the fact that Roosevelt requested that areas be

¹¹¹ Act of Jan. 24, 1905, ch. 137, § 1, 33 Stat. 614 (1905), Gabrielson 10, H.R. Rep. 58-2079 at 1-2 (1904), Reed and Drabell 21-22, Theodore Roosevelt, "First Annual Message to Congress," December 3, 1901, and S. Rep. 58-2952 at 1-2 (1904).

¹¹² This grant of power may have also been Congress' way of giving Roosevelt some of what he wanted, without designating the Grand Canyon as a national park, which was his ultimate goal. The Grand Canyon would not become a national park for thirteen more years, finally coming to be in 1919. Act of June 29, 1906, ch. 3593, § 1 34 Stat. 607 (1906), George Cameron Coggins and Michael E. Ward, "The Law of Wildlife Management on the Federal Public Lands," *Oregon Law Review*, 60 (1981): 616, H.R. Rep. 59-4973 at 1-2 (1906), Theodore Roosevelt, "State of the Union Address," December 6, 1904, Theodore Roosevelt, "State of the Union Address," December 5, 1905, and S. Rep. 59-1586 at 1-2 (1906).

allocated for the protection of animals, Congress *did not need to give the presidency the actual authority to designate each specific refuge*. It is possible that since the areas were within national forests Congress believed it made sense to grant the executive this power as the president still held the authority to create the forests themselves. Yet even if this was the case, Congress did not have to follow precedent. No, Congress' actions instead show an endorsement of the power of the presidency in the establishment of national wildlife refuges, and also a re-endorsement of the office's power in national forests.

The third and fourth refuges that were created by law, at least in part, were the National Bison and National Elk Refuges. The National Bison Refuge, established in 1908, is the first example of a purely Congressional wildlife refuge. The law passed on May 23, 1908, granted funds to purchase lands from the Flathead Native American nation in Montana for the preservation of bison suffering from near extinction due to overhunting. Thus the first Congressional reservation not only refrained from including the executive, but it also marked the first time land was purchased for wildlife protection by the federal government. Prior to this, withdrawing public lands formed reservations. Yet here we see Congress taking the initiative to buy land not under the jurisdiction of the American government in order to save the American bison population. This action is surprising as it occurred before other laws existed which permitted the purchase of lands outside of the national government's purview, such as the Weeks Act of 1911 which allowed for the purchase of private lands in the Eastern United States to become national forests.¹¹³ Thus the first purely Congressional refuge set significant precedents for federal wildlife protection and public land policy.

¹¹³ Act of May 23, 1908, ch. 192, 35 Stat. 267 (1908), Fischman *The National Wildlife Refuges Coordinating a Conservation System through Law* 35, Bill Reffalt, Bill West, and Pat Jamieson, *The*

The National Elk Refuge, designated in multiple steps during 1912-1914, is a more complicated story. Congress took the lead in initiating action for the refuge by passing a law in 1912 which provided appropriations specifically for the purchase of lands in Wyoming. Then in 1913, Congress officially “created” the refuge by specifying which lands would be a part of the refuge, and provided the Secretary of the Interior with the power to acquire those lands for the national government. Then finally in 1914, President Wilson issued an executive order to temporarily withdraw lands in Wyoming to be considered for inclusion in the wildlife refuge based upon decisions made by the Department of Agriculture. The order, rather remarkably, does not rely upon the original 1912 or 1913 National Elk Refuge acts, but upon the authority granted to the president in the more general Pickett Act of 1910 and its amendments of 1912.¹¹⁴

Thus the National Elk Refuge foreshadows certain patterns seen in future wildlife refuge establishment. First, it shows that shared executive-legislative establishment could occur. Second, it reinforces the idea that federal government is open to purchasing private lands when needed for the protection of an endangered animal population. Third, it shows that Congress again accepted the role of the president in establishing public land reservations by not altering or challenging the executive order issued by President Wilson. No “turf wars” seemed to have ensued because of this action. Consequently the National Bison and Elk Refuges showed that Congress further endorsed the need for lands used for wildlife protection, that lands outside of the federal government may need to be acquired to do so, and that the president played a key role in these efforts.

National Bison Range From the Past, for the Future, (Moiese, MT: U.S. Fish and Wildlife Service, 2008): 1, 4, and Tredennick 42, footnote 4.

¹¹⁴ Act of August 10, 1912 and Act of March 4, 1913, ch. 284, 37 Stat, 293 (1913), Coggins and Ward 94, Exec. Order No. 2407 (1914), and Fischman *The National Wildlife Refuges Coordinating a Conservation System through Law* 35.

Congress created the Upper Mississippi River Wildlife and Fish Refuge in 1924, serving as the last of the initial set of five Congressional wildlife reserves. The refuge's purposes, for the first time, focused upon the general preservation of wildlife in a designated area rather than the protection of a specific type of animal. The law set aside \$1.5 million for the purchase of bottom lands of the Upper Mississippi River in Minnesota, Wisconsin, Iowa, Illinois, and Montana. The law's wording notes the importance of wildlife generally for the region, not concentrating upon one or more particular species: "...to such extent as the Secretary of Interior may by regulations prescribe, as a refuge and breeding place for other wild birds, game animals, fur-bearing animals, and for the conservation of wild flowers and aquatic plants..." and "...as a refuge and breeding place for fish and other aquatic animal life."¹¹⁵ This action by Congress impacted future refuge creation in two ways. One, it broadened the potential for future refuges by supporting the formation of a reservation meant for any and all animals contributing to the habitat of a particular region. Two, it foreshadowed a pattern of granting authority to the Secretary of the Interior, rather than the president, to make decisions regarding refuge establishment. Thus the Upper Mississippi River Refuge set the precedent for a more expansive understanding of what wildlife refuges could accomplish, and which officials could affect their formation in the future. Each of these first five Congressional refuges therefore not only helped to solidify the legality and acceptance of federal action in wildlife protection, but also supported and enhanced the role of the executive in this process.

¹¹⁵ Act of June 7, 1924, Pub. L. No. 68-268, 43 Stat. 650 (1924), Gabrielson 14, and Reed and Drabelle 24.

Congressional Wildlife Refuges since 1924

Congress did not stop forming wildlife refuges with the Upper Mississippi in 1924, but continued to create reserves throughout the 20th and 21st centuries. The pattern of establishment by Congressional statute is quite sporadic and limited when compared to those formed under the presidency and executive agencies. Beginning with the Bear River refuge in 1929, Congress created at least one refuge per decade. The 1960s saw four Congressionally-based refuges, and the number increased to six in the 1970s. The 1980s brought the biggest Congressional impact to the National Wildlife Refuge System, both in terms of the number of new refuges (20) and number of acres.¹¹⁶ This was due to the passage of the Alaska National Interest Lands Conservation Act of 1980, which created twelve new refuges by withdrawing additional federal lands and/or reorganizing former refuges under new designations. The law included additions and adjustments to the majority of land preservation types in Alaska, from national parks to national wilderness areas.¹¹⁷ The 1990s and 2000s both exhibited a steady stream of refuges by Congressional statute, with eleven and ten new reserves, respectively. Congress' grand total for national wildlife refuges comes to 56 out of 681 refuges ever created. So as can be seen, Congress' role as creator of refuges is quite limited in comparison to the

¹¹⁶ Table IV: National Wildlife Refuges.

¹¹⁷ While this is the most important contribution made by Congress to the National Wildlife Refuge System, and the largest addition ever made at one time to the system, it is important to note the role the presidency played in the preservation of these particular lands. Prior to Congress passing the law in 1980, President Carter established seventeen national monuments in Alaska consisting of the refuge lands in 1978 when the first attempt to pass the law failed in Congress. The 1980 law supersedes the executive orders creating the national monuments, and in many instances contributes more acreage than those originally set aside by Carter. Yet still we see that even in the most prominent example of refuge establishment by Congress, the presidency still withdrew much of the land before Congress did. See the Chapter IV: National Monuments for a deeper discussion of the role played by the presidency in withdrawing lands that eventually are re-designated under the authority of Congress.

Alaska National Interest Lands Conservation Act of 1980, Pub. L. No. 96-487, 16 U.S.C. 51 (1980) and Reed and Drabelle 22-23.

presidency and executive agencies, representing approximately 8% of reservations.¹¹⁸

However, while the direct Congressional contribution to the creation of refuges might be small, the institution's critical role in the development of the system came in a different form: that of delegator.

Congress' Continued Role: Laws Delegating Power to the Executive, and to the Executive Branch

While the earliest Congressional refuges showed the institution's willingness to fully endorse federal wildlife protection in various manners, and instituted precedents upon which future statutes could be based, it is in the numerous laws that provided the executive with the power to found future refuges that Congress truly impacted the manner of wildlife refuge establishment. These delegations of power came in two patterns: first, through grants of authority given specifically to the president, and second, through acts providing executive agencies with increasing authority and discretion in setting aside refuges. The following section outlines the delegations to the office of the president.

Reinforcing Executive Action: Congressional Delegated Authority to the President

Three laws comprise the first category of Congressional delegation that provided specific powers to the president: the Areas for the Protection of Game and Fish Act, the Fish and Game Sanctuary Act, and the Land and Water Conservation Fund Act. The first two laws, passed in 1916 and 1934, follow in the precedential footsteps of the Forest Reserve Act's powers to the presidency as they both relate to national forests.¹¹⁹ In these

¹¹⁸ All calculations for refuge numbers come from the data presented in Table IV: National Wildlife Refuges.

¹¹⁹ The Forest Reserve Act of 1891 granted the presidency the power to withdraw lands from private purchase in order to create forest reserves, later known as national forests. For more specifics on the act, see Chapter II: National Forests.

statutes, Congress permitted the president to designate sections of national forests as special areas for wildlife protection. The Areas for the Protection of Game and Fish Act declared that the president could essentially create wildlife refuges within forest reserves in the eastern United States. Lands could "...be set aside for the protection of game animals, birds, or fish..." The act specifies eastern forests due to the fact that the majority of national forests created under the Forest Reserve Act came from federally withdrawn lands in the western half of the country. Much of the eastern United States' land had been sold to private owners in the earliest years of the nation's development in order to provide revenue for the new government. As a consequence, efforts to make it possible to buy privately owned land for national forests in the east began to surface in Congress. In 1911, the Weeks Act passed, permitting the federal government to buy parcels from eastern landholders for national forests. So when the 1916 law passed to allow the president to protect wildlife in eastern forests, the distinction reflected the divided nature of national forests between east and west.¹²⁰

However, this feature disappeared with the enactment of the second law granting the presidential office authority to protect wildlife. The Fish and Game Sanctuary Act, passed in 1934, broadened the presidential power to include all national forests, eastern and western lands alike. The reserves within the forests were to be: "...fish and game sanctuaries or refuges which shall be devoted to the increase of game birds, game animals, and fish of all kinds naturally adapted thereto..." According to the law, the president decided where best to place these refuges based upon recommendations from the Secretaries of Agriculture and Commerce. Also, before procurement, state

¹²⁰ Act of Aug. 11, 1916, c. 313, 39 Stat. 476 (1916), Act of June 25, 1948, c. 654, § 10, 62 Stat. 860 (1948), Samuel Trask Dana, *Forest and Range Policy Its Development in the United States*, (New York: McGraw-Hill, 1956): 149-150, 183-185, and Zasklowsky and Watkins 76-78.

representatives from the region needed to provide their consent to the proposed wildlife protection areas.¹²¹ The passage of these two laws shows continued support, even endorsement, for presidential power in the realm of public land creation, especially within the national forests.¹²² This is especially interesting considering the fact that Congress had challenged presidential power to establish forest reserves, and blocked said power in six major states in 1907.¹²³

Additionally, Congress did not revoke the Fish and Game Sanctuary Act of 1934 in the Federal Land Policy and Management Act of 1976 (FLPMA), like the Forest Reserve Act and others.¹²⁴ This is particularly surprising as the FLPMA attempted to curb excessive executive initiative in the realm of land preservation. Considering the fact that Congress challenged the executive use of power regarding forest reserves in the past, and that the president initiated the creation of wildlife refuges without the consent of Congress, these acts of delegation show how acquiescent, if not supportive, Congress became regarding executive power in establishing new public land reservations.

The third act granting power directly to the president surprisingly came many decades later, in between a host of statutes providing wildlife refuge authority to executive agencies, rather than the presidency. The Land and Water Conservation Fund

¹²¹ Act of Mar. 10, 1934, c. 54, §1, 48 Stat. 400 (1934).

¹²² President Theodore Roosevelt called for the protection of game in forest reserves as early as his state of the union address in 1902, and for the specific grant of power to the president to do so in his address to Congress in 1904. As stated by Roosevelt in 1902: "Legislation should be provided for the protection of game, and the wild creatures generally, on the forest reserves. The senseless slaughter of game, which can by judicious protection be permanently preserved on our national reserves for the people as whole, should be stopped at once." Theodore Roosevelt, "State of the Union Address," December 2, 1902 and "State of the Union Address," December 6, 1904.

¹²³ See Chapter II: National Forests for a discussion of the Congressional challenges to the authorities granted by the Forest Reserve Act of 1891.

¹²⁴ For additional information on the FLPMA and its impact on the creation of wildlife refuges, see the section below entitled, "No Challenge: The Federal Land Policy and Management Act of 1976." Federal Land Policy and Management Act of 1976, 43 U.S.C. 35 (1976), and Fischman *The National Wildlife Refuges Coordinating a Conservation System through Law* 169.

Act of 1965 sought to provide monetary resources for state and federal land and water acquisitions for both habitat protection and recreational purposes. Recreation for humans had long been a key purpose for many public lands, including those wildlife refuges which did not require absolute isolation for animal protection. The Land and Water Conservation Fund received monies from fees charged to individuals seeking to take advantage of recreational opportunities on public lands. State and federal purposes split the fund's proceeds. In the federal section of the law, the president is granted the power to use the funds for a number of objectives, including the establishment of national areas for "...the preservation of species of fish or wildlife that are threatened with extinction" and for refuges that could also be used for their recreational offerings. All executive branch agencies related to public lands could use Land and Water Conservation revenue, including the U.S. Fish and Wildlife Service, the Bureau of Land Management, the National Park Service, and the U.S. Forest Service.¹²⁵

Thus the law provided the president with an important power to create not only refuges for threatened species, but other areas of protected land suited to the law's objectives. Since the law is quite broad in application with a number of executive agencies included, this could explain why the president, rather than independent agency officials, received this power. The reasoning behind the decision to give the authority to the president does not however impact the reality that Congress in 1965 still saw the presidency as an important player in public land reservation. The above three laws giving power to the president to designate land for wildlife protection, even if within certain limitations like the national forests, shows that despite other trends in

¹²⁵ Andrews 192-193, Land and Water Conservation Fund Act of 1965, 16 U.S.C. §§ 4601-4-4601-11 (1965), and Reed and Drabelle 24.

establishment, the presidency remained very much at the heart of public land designations.

The Executive Branch Takes Over: Congressionally Delegated Authority for National Wildlife Refuges

The second pattern of Congressional delegation provided natural resource-oriented agencies increasing discretion and power in the formation of new wildlife refuges. Beginning slowly with the passage of three related laws in the early part of the century through the Endangered Species Act of 1973 (ESA), these delegations increasingly deferred to the expertise of agency officials to effectively create wildlife refuges. While Congress and the president still occasionally designated particular reserves, the power shift from presidential to administrative methods of establishment, initiated by FDR's executive order in 1942, became more comprehensive with each new law passed by Congress.¹²⁶ By doing so, Congressional statutes essentially institutionalized wildlife refuge establishment, guaranteeing that federal wildlife protection would primarily remain under the purview of the executive.

The Introduction of the Executive Branch Agency: A Congressional-Agency Shared Approach for the Protection of Migratory Birds

Congressional delegation to executive branch agencies began early and tentatively with a set of three statutes dedicated to the protection of migratory birds. The laws signify the first Congress-sanctioned foray into refuge creation for executive branch agencies, with a shared approach between the executive and legislative branches. The first law, the Migratory Bird Treaty Act of 1918, initiated an effort by the United States and other countries to afford a safe migration route for important bird species. The act

¹²⁶ Executive Order 9146 "...authorize(d) the Secretary of the Interior to sign all orders withdrawing or reserving public lands of the United States, and all orders revoking or modifying such orders."

essentially provided for the implementation of international treaties regarding migratory birds between the United States and Great Britain, Canada, and Mexico, respectively. Amendments to the treaties later included independent agreements between the United States, Japan, and Russia. While the 1918 act supported the acquisition of lands necessary to uphold these treaties, its provisions were quite limited as it did not provide the authority to actually obtain such lands. “The Migratory Bird Treaty Act of 1918 provided the impetus for the first refuge acquisitions,” but not the methods by which to do so.¹²⁷ Thus as the years passed, the need for a law allowing the federal government to obtain the necessary habitat land for migratory birds became clear.

The first answer to the lack of procurement powers for the federal government came in the form of the second law of import, the Migratory Bird Conservation Act of 1929. The law permitted the purchase of private lands to be set aside specifically for migratory bird refuges. “Though Congress had approved the use of federal funds to purchase land for wildlife conservation as early as 1909 on an ad hoc basis, the MBCA established *a general, standing rationale for acquiring refuges* to serve as ‘inviolate sanctuaries’ for migratory birds.”¹²⁸ These reservations were to be founded along the important flight paths, particularly north to south, in the United States. The law also created the Migratory Bird Conservation Commission (MBCC), a group of officials that would: “...consider and pass upon any area of land, water, or land and water that may be recommended by the Secretary of the Interior for purchase or rental under this Act...” The Commission consisted of both executive and legislative officials, making establishment a balanced decision between elected representatives and experts from

¹²⁷ Michael J. Bean and Melanie J. Rowland *The Evolution of National Wildlife Law*, (Westport, CT: Praeger, 1997): 63-64, 69-71, Fink 12 and Migratory Bird Treaty Act of 1918, 16. U.S.C. 703-711 (1918).

¹²⁸ Fischman *The National Wildlife Refuges Coordinating a Conservation System through Law* 36-37.

relevant executive agencies.¹²⁹ The Act also granted the authority to purchase lands for migratory bird refuges to the Secretary of the Interior. The Secretary gained this power not just for those reserves decided upon by the Commission, but also for lands donated to the government for such purposes: “The Secretary of the Interior is authorized to purchase or rent such areas as have been approved for purchase or rental by the commission, at the price or prices fixed by said commission, and to acquire by gift or devise, for use as inviolate sanctuaries for migratory birds.”¹³⁰

Therefore the Migratory Bird Conservation Act instituted a shared approach between the executive and legislative branches to establish bird refuges for the purposes of migration. However, the act gives the executive branch primary jurisdiction over the decision to include new lands as sanctuaries. First, the recommendations made to the MBCC come from the related executive agency (now the U.S. Fish and Wildlife Service in the Department of the Interior). The expertise of these agency officials encourages appropriate suggestions to the Commission. Second, a portion of the Commission membership comes from the executive branch. While Congress is represented by four total members, and the executive branch is by three, the chairman of the Commission is the Secretary of the Interior, an executive branch official. Third and finally, the Secretary of the Interior is the individual authorized to make land purchases for the refuges. The Secretary also received the right to accept donations of land for migratory bird protection

¹²⁹ The current officials of the MBCC include the Secretary of the Interior (who serves as chairman of the Commission), the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, two members of the House of Representatives, and two members of the Senate. The U.S. Fish and Wildlife Service’s Realty Office provides staff support for the MBCC.

Bean and Rowland 284, Migratory Bird Treaty Act, 16 U.S.C. 703-711 (1918) and “Migratory Bird Conservation Commission,” United States Fish and Wildlife Service, Available: <http://www.fws.gov/refuges/realty/mbcc.html>.

¹³⁰ Fink 12-13, Migratory Bird Conservation Act of 1929, 16 U.S.C. 715-715r (1929), and Reed and Drabelle 22.

through the act, an authority that would later be broadened. Thus while the power to establish migratory bird refuges is in many ways concentrated in Congress, the delegated nature of the law tips the balance of power over to the executive in practice.

The first two migratory bird laws essentially made the establishment of refuges legally possible. Unfortunately for the birds, these statutes neglected to provide a source of funding to make the necessary land purchases. Without designated revenue to establish the refuges needed for migration, the United States faced failing to uphold its treaty responsibilities under the migratory bird acts. During the first couple of years of the Franklin D. Roosevelt administration, the Bureau of the Biological Survey recommended a number of sites for potential reserves. However, without a dedicated source of funding (especially considering the economic condition of the country in the Great Depression), none of the refuges could actually be created. Consequently, the Roosevelt administration sought a plan of action to rectify the problem. The Chief of the Bureau of the Biological Survey, Jay N. “Ding” Darling, formulated a plan by which funding could be procured from individuals hunting on federal lands outside of wildlife refuges. Hunters seeking access to lands and game paid \$1 in exchange for a stamp that allowed them to practice their sport freely.¹³¹

Darling’s plan became the backbone of the third and final act for migratory bird protection, known the Migratory Bird Hunting Stamp Act of 1934 and commonly referred to the “Duck Stamp Act.” The proceeds of the hunting stamps went into a fund for the administration and establishment of the migratory bird refuges: “...the remained shall be available for the location, ascertainment, and acquisition of suitable areas for

¹³¹ “Jay Norwood “Ding” Darling,” U.S. Fish and Wildlife Service, Available: <http://www.fws.gov/refuges/history/bio/darling.html>, Migratory Bird Hunting Stamp Act of 1934, 16 U.S.C. 718-718h (1934), and Zaslowsky and Watkins 166-170.

migratory bird refuges under the provisions of the Migratory Bird Conservation Act and for the administrative costs incurred in the acquisition of such areas.” Additionally, the law provided new powers to the Secretary of the Interior in managing the resources accrued through the sale of the stamps:

The Secretary of the Interior is authorized to use such funds made available...and such other funds as may be appropriated...to acquire, or defray the expense incident to acquisition by gift, devise, lease, purchase, or exchange of, small wetland and pothole areas, interest therein, and rights-of-way to provide access thereto.¹³²

The Migratory Bird Hunting Stamp Act offered the necessary capital for the ascertainment and management of migratory bird refuges in America. The act also furthered the role of the executive branch in the establishment process, first by finally designing a method by which monetary resources could be collected to buy refuge lands, and second by giving the power to make said purchases to the Secretary of the Interior. Hence, the three migratory bird laws can be seen as the first steps away from a purely presidential-based mode of wildlife refuge formation to one more reliant on the relevant executive agencies. Congress could very well have dominated the MBCC, and kept the power of procurement solely in its hands. However, it chose to share power with the executive branch and consequently the expertise provided by agency officials. In practice, the role of the executive would become even more critical. This pattern of allocation to the executive, broadly understood, would only continue with each major piece of authorizing legislation related to national wildlife refuges in the future.

¹³² 2014 *Annual Report Migratory Bird Conservation Commission*, (Falls Church VA: U.S. Fish and Wildlife Service, 2014): 2, “Jay Norwood “Ding” Darling,” U.S. Fish and Wildlife Service, Available: <http://www.fws.gov/refuges/history/bio/darling.html>, Migratory Bird Hunting Stamp Act of 1934, 16 U.S.C. 718-718h (1934), and Zaslowky and Watkins 166-170.

Re-Creating an Agency: The Fish and Wildlife Act of 1956

The fourth law in the shift towards executive agency refuge creation came a few decades later in the form of the Fish and Wildlife Act of 1956. This law is the first example of Congress providing an executive agency *independent power* to establish refuges. The act formally created what is now the major federal agency responsible for wildlife, plant, and habitat protection in the country: the U.S. Fish and Wildlife Service. Franklin D. Roosevelt's Reorganization Plan No. 3 of 1940 officially founded the U.S. Fish and Wildlife Service, but the 1956 law granted independent agency status within the Department of the Interior. The law acknowledged the importance of wildlife to the American people and the nation as a whole. The language also highlights the need for lands set aside specifically for the country's important animal and plant populations:

The Congress hereby declares that the fish, shellfish, and wildlife resources of the Nation make a material contribution to our national economy and food supply, as well as a material contribution to the health, recreation, and well-being of our citizens; that such resources are a living, renewable form of national wealth that is capable of being maintained and greatly increased with proper management, but equally capable of destruction if neglected or unwisely exploited...¹³³

The act also created high level agency positions that would play an important role in the development of the national wildlife refuges: the Commissioner of Fish and Wildlife, and the Assistant Secretary for Fish and Wildlife.¹³⁴

The most important features of the Fish and Wildlife Act for the initiation of new refuges are the enumerated responsibilities and authorities given to the agency's Secretary. Two of these features relate specifically to the creation of future reserves for

¹³³ Fish and Wildlife Act of 1956, 16 U.S.C. § 742f(a) (1956).

¹³⁴ Fish and Wildlife Act of 1956, 16 U.S.C. § 742f(a) (1956).

animals and plants. The first aspect charges the Secretary to lead the agency in pertinent research on related environmental subjects. The Secretary is to:

Conduct continuing investigations, prepare and disseminate information, and make periodical reports to the public, to the President, and to the Congress... [Manage] the collection and dissemination of statistics on the nature and availability of wildlife, progress in acquisition of additional refuges and measures being taken to foster a coordinated program to encourage and develop wildlife values...[and] any other matters which in the judgement of the Secretary are of public interest in connection with any phases of fish and wildlife operations.¹³⁵

The second facet expands the Secretary's overall role by allowing the Secretary to determine the agency's "policies and procedures" needed to fulfill the demands of the nation's fish and wildlife laws. Within this broad delegation of power, specific allocations are listed regarding the creation of new refuges. The Secretary is thus allowed to:

Take such steps as may be required for the development, advancement, conservation, and protection of the fisheries resources; and take such steps as many be required for the development, management, advancement, conservation, and protection of wildlife resources through research, *acquisition of refuge lands, development of existing facilities, and other means*. (Emphasis added.)¹³⁶

Thus the Fish and Wildlife Act of 1956 plays a key role in the overall pattern of establishment for national wildlife refuges. First, it re-designates an executive agency specifically meant to carry out the research and practice necessary for the protection of animals, plants, and associated habitats in the United States. This aspect proves the federal commitment to wildlife and the lands needed to support it as a national treasure for its citizens. Second, it provides broad discretion to the agency, and particularly the Secretary, to ensure that this commitment to wildlife continues. Of particular interest to

¹³⁵ Coggins and Ward 97-98 and Fish and Wildlife Act of 1956, 16 U.S.C. § 742f(a) (1956).

¹³⁶ Fish and Wildlife Act of 1956, 16 U.S.C. § 742f(a) (1956), Fischman *The National Wildlife Refuges Coordinating a Conservation System through Law* 170-171, 214 and Reed and Drabelle 10, 22.

the establishment of refuges is the broadening of power granted to the Secretary (and hence the executive branch) to collect information and make decisions regarding the acquisition of new refuge lands. While administrative means already created a number of reservations, the Fish and Wildlife Act provided for even greater independence and discretion for the agency in this action area.¹³⁷

The Refuges Become a System: The National Wildlife Refuge System Act of 1966

The fifth statute to play a key part in executive agency wildlife refuge establishment is the National Wildlife Refuge System Act of 1966. The act officially consolidated the collection of refuges established independently of each other since 1903 into one recognized group: the National Wildlife Refuge System. The act impacts the formation of refuges in three ways. Firstly, the system's primary purpose is to: "provide, preserve, restore, and manage a national network of lands and waters sufficient in size, diversity and location to meet society's needs for areas where the widest spectrum of benefits associated with wildlife and wildlands is enhanced and made available." Thus the act first and foremost endorses the notion of a nationwide system of wildlife protection, including the acquisition of the lands necessary to do so. Secondly, the act reinforces the responsibilities of the agency's Secretary, granting the office power over all "...wildlife refuges, areas for the protection and conservation of fish and wildlife that are threatened with extinction, wildlife ranges, game ranges, wildlife management areas, or waterfowl production areas." Thirdly, aside from restating the federal government's commitment to providing secure wildlife habitats, and the Secretary's continued ability to

¹³⁷ Many of the refuges created by administrative means up until the 1956 act came from the Migratory Bird Conservation Commission, and thus represent a more shared method with the input of Congress members on the Commission. With the 1956 act, Congress provided the impetus for more agency-independent refuge creation.

establish new refuges under current authorities, the law included an important precursor to the Endangered Species Act of 1973. The statute included “... the Endangered Species Preservation Act of 1966, which authorized the secretary of the interior to acquire land and to review certain programs to conserve species at risk of extinction...”¹³⁸ The 1966 Endangered Species Preservation Act consequently underpinned the notion that top administrative officials should exercise the power of refuge establishment.

Therefore the 1966 act impacts the role of the administrative agency in refuge formation in three ways. First, the law endorses those lands already created by all methods of establishment through their recognition and consolidation into one, cohesive system. Second, the act also reinforces the notion that the Secretary is responsible for refuge creation. Third, it places the responsibility for determining when lands should be added to the system in order to protect threatened species with the Secretary, a limited but important step towards the powers granted to the office in the full act of 1973.

Formal Protection from Extinction: The Endangered Species Act of 1973

The sixth law crucial to the development of the National Wildlife Refuge System came in 1973 in a broad statute dedicated to finding ways in which to protect those populations facing extinction: the Endangered Species Act. Broader in concern and application than many of the other relevant statutes discussed above, the law establishes the nations’ commitment to safeguarding plant and animal species harmed by human growth and development within the country’s boundaries. Listed first amongst the act’s purposes is the need to “...provide means whereby the ecosystems upon which endangered species and threatened species depend may be conserved...” Consequently,

¹³⁸ Fischman *The National Wildlife Refuges Coordinating a Conservation System through Law*, 45-46, quotation on 45, National Wildlife Refuge System Act of 1966, 16 U.S.C. §§ 668dd and 668ee (1966), Wilson 160, and Zaslowky and Watkins 153.

the *procurement of land* for new refuges served as a crucial part of the federal government's protection of endangered species. Many of the act's provisions apply generally to the entire federal government, including executive branch agencies outside of the Fish and Wildlife Service. The important aspects relating to the U.S. Fish and Wildlife Service deal specifically with the Department of Interior's role and responsibilities in research, protection, and habitat acquisition.¹³⁹

Two key responsibilities given to the Secretary of the Interior are critical to the establishment of refuges. First, the Secretary must, in consultation with those agencies and officials with expertise in the area, determine which species should be listed as either endangered or threatened. Second, the act provides the Secretary the power to procure lands necessary "...to conserve fish, wildlife, and plants, including those which are listed as endangered species or threatened species pursuant to Section 4 of [the] Act." The law broadens the authorities delegated to the Secretary in the Fish and Wildlife Act, the Fish and Wildlife Coordination Act, and the Migratory Bird Conservation Act, to allow for this new ability. Thus the Secretary "...is authorized to acquire by purchase, donation, or otherwise, lands, waters, or interests therein, and such authority *shall be in addition to any other land acquisition vested in him.*" (Emphasis added.)¹⁴⁰

The Endangered Species Act consequently gave the agency and the Secretary command over the addition of refuges to the system for threatened and endangered

¹³⁹ While the ESA grants its authorities generally to the Department of the Interior, the U.S. Fish and Wildlife Service is the main agency responsible for carrying out the act's provisions. As stated by the U.S. Fish and Wildlife Service: "As the principal federal partner responsible for administering the Endangered Species Act, we take the lead in recovering and conserving our Nation's imperiled species by fostering partnerships, employing scientific excellence, and developing a workforce of conservation leaders." See "Endangered Species: Overview," U.S. Fish and Wildlife Service, Available: <http://www.fws.gov/endangered/about/index.html>.

Endangered Species Act of 1973, 16 U.S.C. 1531-1544 (1973).

¹⁴⁰ Bean and Rowland 200-207, Endangered Species Act of 1973, 16 U.S.C. 1531-1544 (1973), Reed and Drabelle 90, 98-101, and Wilson 161.

species. It built upon the limited empowerment for consideration of programs and acquisitions regarding species threatened by extinction in the 1966 act by allocating power to the Secretary to first define species in need of protection, and to then acquire lands for those populations. The act also allows not only for the continuation of past land acquisition authority, but for future delegations to the Secretary. The act consequently places the power to add lands to the system for endangered and threatened species entirely with administrative agencies, with little to no limitations.

No Challenge: The Federal Land Management and Policy Act of 1976

The seventh law of import to the formation of wildlife refuges is the Federal Land Management and Policy Act of 1976 (FLMPA). Of incredible significance for public land establishment broadly, the law reviewed every power ever granted to the executive in withdrawing and obtaining federal lands. For example, as covered in the previous chapter, Congress revoked the president's ability to establish national forests in the FLPMA. The act is therefore quite significant for wildlife refuges, as the first refuge and many after were created solely through unilateral presidential action; exactly the type of actions the FLPMA sought to curb. Surprisingly however, the law did not remove the president's ability to create new refuges, meaning that power still resides with the office to this day. Relatedly, Congress did rescind general authorities like the Pickett Act of 1910, which often served as the legal basis within executive orders creating refuges. However, the Fish and Game Sanctuary Act, which gave the president power to designate refuges within national forests, also remained untouched by the FLPMA.¹⁴¹ Therefore, the act meant to challenge overuse of executive power in the creation of public lands

¹⁴¹ Federal Land Policy and Management Act of 1976, 43 U.S.C. 35 (1976), and Fischman *The National Wildlife Refuges Coordinating a Conservation System through Law* 169.

preserved, and effectively endorsed, the role of the presidency in the creation of the national wildlife refuges despite the fact the power originated with unilateral presidential initiative.

Further Granted Authority: The Emergency Wetlands Resources Act of 1986

The eighth and final modern law relevant to the founding of wildlife reserves is the Emergency Wetlands Resources Act of 1986. Congress passed this law in order to better protect wetlands throughout the United States, which are considered extremely valuable as primary habitats for, the “...major portion of the migratory and resident fish and wildlife of the Nation.” The law introduced a new fee system for public visitors to refuges where visitation is allowed. Deposited into a two separate accounts, the fees pay for the purchase and maintenance of wetland refuges for all wildlife types, and for those wetlands specifically formed under the authority of the Migratory Bird Conservation Act. Since the first fund could be used for the general attainment of wetlands-based refuges, the law states, “the Secretary is authorized to purchase wetlands or interests in wetlands, which are not acquired under the authority of the Migratory Bird Conservation Act of 1929, consistent with the wetlands priority conservation plan established under section 301.”¹⁴² The Emergency Wetlands Resources Act therefore mirrors the grants of power to the Secretary under the Endangered Species Act. The shift from executive order-dominated refuge establishment to executive-agency dominated establishment culminates in these two laws, where the authority is given to the Secretary without much limitation. We thus see Congress placing its trust in the administrative methods of establishment, maintaining and instituting executive dominance in this realm.

¹⁴² Emergency Wetlands Resources Act of 1986, 16 U.S.C. § 3901 (1986) and Fink 18-19.

The second pattern seen in Congressional delegation which afforded executive agencies increasing power to form refuges, as compared to the first pattern which granted authority directly to the president, brings our story of wildlife refuge establishment to a close. The statutes listed above serve as the main sources, through the authority of the U.S. Fish and Wildlife Service, from which the majority of modern wildlife refuges are created. From the executive order issued by President Franklin Roosevelt in 1942 through to the Endangered Species Act, the creation of refuges became institutionalized within the executive, broadly understood. The two patterns of delegation from Congress only helped to solidify this fact; which is a fitting “end” to a story that began within the walls of the most executive of offices, the Oval Office.

National Wildlife Refuges and Congressional Acceptance: Allowance, Emulation, and Delegation

The national wildlife refuges represent a strong example of presidential influence in national land preservation establishment. From the outset, the refuges were the result of presidential unilateral action in response to wildlife protection groups. Without the first decisions by President Roosevelt, the refuge system as we now know it would not exist. While Theodore Roosevelt deserves the credit for initiating the reserves, his predecessors could have shifted, decreased, or completely refused to implement the power he first exercised. Had they decided against the need for wildlife protection by the federal government, the story of American wildlife refuges could have begun and ended with the first Roosevelt administration. Again, we see presidents of all stripes and political leanings willing to take action in the realm of public lands well before the formation of the “modern” presidency. What is even more surprising for national wildlife refuges, especially as compared to their predecessors, the national forests, is that

the power to create refuges did not come from a Congressional statute like the Forest Reserve Act of 1891. Presidents chose to follow in the footsteps of Roosevelt, despite the fact that Congress granted no such authority to do so. Presidents, beginning with Woodrow Wilson, did refer to associated Congressional delegated authority in their executive orders, but *Congress never granted explicit power to the president to establish national wildlife refuges.*

The fact that Congress did not provide the presidency the authority to form national wildlife refuges makes its own participation in the development of the refuges even more intriguing. Since the idea of federal protection for wildlife came from the presidency, it would make sense that Congress might seek to challenge or alter this presidency-declared power. Instead we only find continued Congressional affirmation of the acts taken by the presidency in this realm. Three categories of Congressional acceptance are consequently present in the case of the national wildlife refuges: allowance, emulation, and delegation.

Chart II: National Wildlife Refuges and Congressional Acceptance

	Delegation	Allowance	Emulation	Limitation
National Forests	✓	✓		✓
National Wildlife Refuges	✓	✓	✓	
National Monuments	✓	✓	✓	✓
National Parks	(✓)	(✓)	(✓)	(✓)
National Wilderness Areas	(✓)	(✓)	(✓)	(✓)

✓ = presence of Congressional acceptance category

(✓) = echoed presence Congressional acceptance category

The first and most important form of Congressional acceptance is allowance. From the outset, Congress did not try and check the use of presidential power to create refuges. Theodore Roosevelt's creation of Pelican Island did not come from any stated power or grant of authority. He simply made sure it was not illegal before he decided to

withdraw the sect of federal land from possible private purchase. Congress could have revoked this action, and the 51 others taken by Roosevelt after this, but they did not. Instead Congress actually fostered early presidential authority by according the president the ability to form refuges within the Wichita Mountains and Grand Canyon forests. During the period of near exclusive presidential establishment (approximately the time from the first to the second Roosevelt administrations), presidents formed 262 refuges, incorporating public lands-related, but not wildlife refuge-specific, statutory authorities into their executive orders as time went by. Yet Congress did not demand these references, nor did they try to prevent any other actions of the kind.

The modern test for presidential dominance in creating refuges came, as with all other forms of executive land withdrawal and establishment, from the Federal Land Management and Policy Act of 1976. As seen in the last chapter, Congress removed the power to form national forests from the presidency in the law, along with other similar authorities. Yet Congress did not limit or revoke the president's authority to create national wildlife refuges. Instead, FLPMA provided a modern endorsement of presidential power in the creation of national wildlife refuges. Thus throughout the progression of the refuge system, Congress definitively allowed presidential action.

The second category of Congressional acceptance is emulation. The executive, both through the presidency and executive branch agencies, created the majority of national wildlife refuges in the nation's system. Broken down by type, presidents via executive order or presidential proclamation established 262, executive agencies (through the current U.S. Fish and Wildlife Service and its predecessors) formed 360, and

Congress created 56 refuges.¹⁴³ There are an additional 3 refuges that are classified as “shared,” in that both Congress and executive agencies played a role in their establishment.¹⁴⁴ So while direct Congressional impact in terms of number of refuges formed under its authority is limited, the fact that these reserves exist at all is important. Congressional refuges may be few, but their existence offers an additional source of support of presidential authority through the endorsement of not only the creation of wildlife refuges, but in some cases the specific delegation of discretion to the presidency to form the refuges in statute language.¹⁴⁵

By being active in the creation of refuges, which began solely due to executive unilateral action, Congress fully endorsed the federal government’s ability to found federally managed lands for wildlife protection. Congress essentially joined in this authority that was not formally given to the president, and remained not only complacent, but complicit in their creation. One might argue that the fact Congress “joined in” meant it wished to remove or reduce some of the power taken by the presidency. This may have been the case in some instances, but given the smaller number of refuges created by legislation, and their random pattern throughout the refuges’ history, it does not appear to be a direct challenge to presidential action in this realm. Congress founded at least one refuge every decade since 1903, (save for the present decade thus far), with some decades seeing only one Congressionally-based refuge.

¹⁴³ See Table IV: National Wildlife Refuges. for complete chronological listing of the refuges.

¹⁴⁴ For example, Congress passed a law in 1984 authorizing the establishment of the Laguna Cartagena National Wildlife Refuge, but it was the U.S. Fish and Wildlife Service that formed the refuge in 1989 through a lease with Puerto Rico.

Laguna Cartagena National Wildlife Refuge Comprehensive Conservation Plan, U.S. Fish and Wildlife Service, (September 2011): 7.

¹⁴⁵ It should be noted that while Congress’ pure number of refuges is much less than those under formed under executive action, Congressional authority did create the most extensive reserve in terms of acreage through the Alaskan National Interest Conservation Lands Act. However, Congress passed the law only after President Carter withdrew much of the same land as national monuments in 1978.

In addition to exercising the power brought into existence by the president, Congressional authorizations sometimes included links to presidential requests and actions. As discussed earlier in the chapter, the House and Senate reports for the first Congressional-authority refuges stated that Theodore Roosevelt's request for wildlife protection in these areas provided the rationale for refuge establishment. Decades later in 1980, the biggest concentration of wildlife refuges designated by Congressional statute, those lands set aside in the Alaska National Interest Conservation Act, came only after a president withdrew them as national monuments. Without this presidential action, the potential for this contribution by Congress may have been removed. Thus even when the presidency was not directly responsible for certain reservations, the indirect influence of the president could still play an important role in a law's passage and a refuge's creation. Thus ever since President Roosevelt decided to withdraw Pelican Island from private purchase, Congress members followed suit in multiple ways, encouraging the establishment of refuges from their inception through to today.

The third and final type of Congressional acceptance for wildlife refuges is delegation. In many ways, the delegated powers from Congress to the executive played just as crucial a role as its allowance did. The laws passed by Congress that extended establishment authority to the executive came in two forms: those that offered power directly to the president, and those that granted it to executive agencies. The first set provided an endorsement and legislative authority for presidents to continue making refuges after the initial reserves relied solely on executive initiative. The second set, even more important than the first, increasingly provided power to executive agencies to form reserves; essentially institutionalizing the executive (broadly understood) as refuge

creator. Had the power to form reserves remained solely within the office of the president, the “ad hoc” development of the National Wildlife Refuge System would have been even more random than it was. Presidents who cared little for wildlife protection, or served during periods of trying war and strife, may have created less or even no reserves during their respective administrations. We even see this to some extent in the earliest pattern of purely presidential establishment; there is a large gap between President Wilson’s refuges that also coincides with World War I. Thus the laws that delegated power to the presidency and to executive agencies in terms of refuge establishment helped to make sure that refuges not only continued to be created, but that the executive played the major, if not predominant, role in their formation.

When assessing the establishment of national wildlife refuges there is no doubt that the presidency reigns supreme. From the recognition of wildlife protection on Afognak Island by President Harrison in 1892, to Theodore Roosevelt’s “I so declare it” in 1903, to Congress’ acceptance of refuge creation in nearly every way, the executive fashioned the National Wildlife Refuge System we have today. In certain ways, the precedent set by Forest Reserve Act of 1891, covered in the previous chapter, laid the foundation for presidential and Congressional action regarding wildlife refuges. The audacity and dominance of unilateral executive action with refuges however, makes refuges unique compared to the national forests, and to the other presidential-dominated category of public lands discussed in the next chapter, national monuments. In the other cases, Congress delegated power first, and presidents used said power. Yet for the national wildlife refuges, the presidency assumed the authority first and subsequent delegations from Congress only continued to validate executive power.

Like the national forest reservation power seen in the previous chapter, presidential action regarding wildlife refuges occurred during a time period when Congress reigned supreme, especially in areas of domestic policy. Yet in this case we see unsanctioned, unilateral presidential power allowed, emulated, and eventually institutionalized through continued Congressional delegation. Therefore the establishment of national wildlife refuges represents an incredibly strong area of power for the presidency, from origination to present day. Remarkably, within only three years of Roosevelt “so declaring” Pelican Island a refuge, Congress would provide the presidency with yet another source of authority in public lands through the Antiquities Act of 1906, the subject of our next chapter.

CHAPTER IV: NATIONAL MONUMENTS

America's national monuments are the third type of land preservation in this study of presidential power development. Nearly 16 years after the passage of the Forest Reserve Act of 1891, and 3 years after Theodore Roosevelt created the first wildlife refuge; Congress passed the Antiquities Act of 1906. The act provided for the protection of certain ruins, objects, and antiquities for the study of American prehistory, but it also granted the presidency another option for preserving public lands. The young nation from the end of the 19th and into the beginning of the 20th century still struggled with the ramifications of the Civil War and citizens strove to discover what it meant to be American. By delving far into America's past, citizens of the United States could look beyond the divisions of recent decades and determine what a complete country and culture could look like. The Antiquities Act assisted in this quest by allowing for the preservation and examination of the earliest cultures present in the ruins and remains of the nation's lands, especially the American southwest. While the purpose of the act focused upon these lofty goals, it also provided the American presidency with a powerful and discretionary authority within a purely domestic policy realm. This law would allow the presidency to take expansive action without the approval of Congress, thus offering a new level of influence for the presidential office during a generally weak time for the institution.

In order to understand how the Antiquities Act became law, and how presidents made it an extremely powerful authority over time, this chapter traces the development of the legislation from its earliest iterations to the most recent presidential proclamations. The first section provides historical context for the interest in, and demand for, protection of American prehistory by invested individuals and organizations inside and outside of

the government. The second part follows the legislative development of the law and how it became as discretionary, especially in terms of the presidency, as it did.

The third portion of the chapter describes and analyzes the application of the Antiquities Act by presidents since 1906. The analysis includes comparisons of presidential use over time, both by specific presidents and between different time periods. The fourth segment examines Congressional responses to the presidential use of the Antiquities Act, and the limited success of challenges to the authority due to the difficulty of creating enough support for such measures outside of representatives from the impacted localities. Consequently despite efforts and opportunities by Congress over the years, the presidential power first provided in the act remains, for the most part, wholly intact to this day. The chapter's conclusion evaluates the ways in which Congress continually accepted and still accepts the presidential power to declare national monuments through delegation, allowance, emulation and limitation.

Historical Background: A Developing National Interest in American Prehistory

A New Nation Searches for Itself in History

The end of the nineteenth century presented a time of change and cultural development in the United States of America. Two events encouraged and shaped a discussion regarding American identity and culture, 1.) the end of the continually expansive American frontier, and 2.) the end of the Civil War. In terms of the frontier, industrial and migratory expansion encouraged the exploration and settlement of the West, so that by the end of the century, the ever expanding western border met the ocean. The American idea of manifest destiny had been realized: the frontier was no longer a border in the earth, but the sand of the Pacific coast. A sense of anxiety developed over

what the culmination of the frontier, of the idea of manifest destiny, meant for everyday Americans. For the first time, people began to question the idea that the vast American lands could provide an endless source of natural resources for the use and exploitation of the people. The first manifestations of this realization from the government came in the form of the first national park, Yellowstone, and the withdrawal of public lands for national forests with the Forest Reserve Act of 1891. These actions highlighted the developing notion that these resources, and the natural landscapes that provided them, were the basis for the young nation's cultural heritage. American culture came not from works of art and music, as those were still nascent, but the mountains, trees, and bodies of water that made the country distinctive compared to the rest of the settled world.¹⁴⁶

Regarding the Civil War, public landscapes held the history of peoples that preceded the new American population. As citizens worked to determine just what it meant to be American, they looked to Native cultures of old, and their remains, to try and provide the historical context that could ground a nation of immigrants. This desire became even more important with the conclusion of the Civil War, as the absolute destruction and divisiveness of that terrible conflict left citizens searching for ways to bring them together when they had nearly been irrevocably torn apart. Looking back to times before the Civil War allowed people from both sides to connect to the same thing;

¹⁴⁶ David Harmon, Francis P. McManamon, and Dwight T. Pitcaithley, "The Antiquities Act A Cornerstone of Archaeology, Historic Preservation, and Conservation," in *The Antiquities Act A Century of American Archaeology, Historic Preservation, and Nature Conservation*, Eds. David Harmon, Francis P. McManamon, and Dwight T. Pitcaithley, (Tuscon, AZ: University of Arizona Press, 2006): 267-269, Char Miller, "Landmark Decision The Antiquities Act, Big-Stick Conservation, and the Modern State," in *The Antiquities Act A Century of American Archaeology, Historic Preservation, and Nature Conservation*, Eds. David Harmon, Francis P. McManamon, and Dwight T. Pitcaithley, (Tuscon, AZ: University of Arizona Press, 2006): 70-71, and 77, and Hal Rothman, *Preserving Different Pasts: The American National Monuments*, (Urbana, IL: University of Illinois Press, 1989): 9-11.

the distant past did not reignite the divisions of the near past.¹⁴⁷ So in late nineteenth century America, the country sought to find itself in the connection to an unknown, distant history, to determine what America stood for now that it had realized the dream of manifest destiny and survived an ultimate threat to its survival.

Historical Sciences: Professionalization, Education, and Awareness in America

During this time of national soul searching, two related professional fields that long existed in European and Asian lands came to the nation's coasts: archaeology and anthropology. The two fields of science became logically and inextricably linked with the overall desire to create a shared history and culture for the United States. The professionalization of these fields of study produced three developments that contributed to their influence in this national search for a cultural foundation: 1.) organizational development, 2.) educational programs, and 3.) public awareness and knowledge.

Professional organization for anthropology and archaeology developed in both the public and private sectors. The late nineteenth century marked the recognition of anthropology as a science in the United States for the first time. The first official acknowledgement came with the establishment of the Bureau of American Ethnology, housed within the Smithsonian Institution in 1879. The bureau sought to increase the knowledge of American Indian culture through research and education, sponsoring a number of projects in the American west to this end. The year 1879 played a critical role for private professional organizations as well, with the founding of the Anthropological Society of Washington. This first regional group consisted of anthropologists, ethnologists, and geologists, many of whom held positions in various government

¹⁴⁷ Rothman, *Preserving Different Pasts* 7-9, and 27, and Alfred Runte, *National Parks: The American Experience*. (Lanham, MD: Taylor Trade Publishing, 2010): 61-65.

agencies. The group published the journal, *The American Anthropologist*, which would eventually become the professional journal of the American Anthropological Association. Additionally in 1879, the American Association for the Advancement of Science formed a section dedicated specifically to anthropology, and chose an anthropologist as its president for the first time; essentially recognizing the field of anthropology on a national scale. With these developments, other regional and specific groups dedicated to anthropology continued to form, and in 1902, the organizations banded together to establish the American Anthropological Association.¹⁴⁸ Each of these groups not only provided professional acknowledgement for anthropology within the country, but also highlighted the importance of the examination of American cultural history.

The field of archaeology saw similar professional developments, though predominantly through national organizations. The Archaeological Institute of America began in 1879 in the city of Boston. The group intended to promote and direct archaeological research abroad and in the United States, educational programs, and public awareness of archaeological findings through publications, lectures, and events. The association spearheaded projects and excavations in America for the first time, as the majority of traditional archaeological study remained in Europe and the Middle East. Membership in the group continued to grow, with influential scholars and members that held important political connections joining the ranks. Another archaeological association deserves mention: the Records of the Past Society. Reverend Henry Mason Baum formed the group in 1900 to encourage the development of archaeology in America. Baum and his society would play a key role in the eventual passage of

¹⁴⁸ Ronald F. Lee, *The Antiquities Act of 1906*. (Washington, D.C.: Office of History and Historic Architecture, Eastern Service Center, 1970): 1-4, 8 and Rothman *Preserving Different Pasts* 13-14.

legislation seeking to protect American antiquities. But even before this, the Records of the Past Society helped to bring knowledge and understanding of archaeology to the broader public through its *Records of the Past Journal*. The society and journal earned the respect of professionals, and published stories that not only informed the field, but members of the general public who later lent support to legislative efforts.¹⁴⁹ Thus with the professionalization and organization of the archaeological profession, individuals in the United States began to realize the significance of protecting and preserving their collective past.

The second development for the fields of anthropology and archaeology lie in the halls of academic institutions across the United States: the emergence of reputable educational programs. Clark University of Worcester, MA awarded the first doctoral degree in anthropology in 1892. Columbia University in New York City formed the earliest comprehensive anthropology program in the country, led by the preeminent American scholar in the field. Archaeological training also came to American shores by the turn of the century, providing students the opportunity to excavate and lead digs not only in Europe and the Middle East, but also on American soil. The Peabody Museum of Harvard University established the first training program of this kind in the nation.¹⁵⁰ The research and findings performed by the scholars of these programs led to the final development for American anthropology and archaeology: public awareness and knowledge.

The formal establishment of the two key fields of anthropology and archaeology further encouraged the development of American culture. The desire of the nation to

¹⁴⁹ James E. Snead, *Ruins and Rivals The Making of Southwest Archaeology*, (Tucson, AZ: The University of Arizona Press, 2001): 9-10, and Lee 4-8, 21-22.

¹⁵⁰ Lee 27-28 and Rothman *Preserving Different Pasts* 13-14.

“find itself” coincided with the two fields’ development, thus linking these fields that sought to understand American prehistory with a citizenry that sought to move beyond its more recent history. Public anthropological and archaeological accounts and exhibits forged this link for Americans. Written narratives of field projects, both scholarly and popular, made for intriguing literature. In 1892, a book entitled *The Land of the Cliff Dweller* by F.H. Chapin provided a detailed description of the ruins and relics discovered by the author while on multiple tours through the unsettled areas of Colorado. Charles F. Lummis, a well-known Southwestern explorer, published his experiences in *Some Strange Corners of our Country*.¹⁵¹ These more accessible and popular accounts provided the American public, especially in the eastern region, a look into the prehistorical past found in ruins throughout the western portion of the country. The stories showed that America not only had a history long before 1776, but that this history could provide a common heritage for a healing citizenry, and should be protected in order to help define the culture of the developing United States.

While reading about the excursions of explorers and excavators conjured images of the ruins of the West, national exhibitions brought the relics themselves to the American people and the world. The first such exhibition occurred in 1892 in Madrid. The Columbia Historical Exhibition displayed six rooms of American objects, the greatest collection of Americana ever on display up until that point in time. The following year however would put the Madrid collection to shame. In 1893, the World’s Columbia Exposition in Chicago presented the work of over 100 eminent field workers, employed to collect objects for two years prior to the event. The exhibition, large and

¹⁵¹ Frederick Chapin, *The Land of the Cliff Dwellers*, (Boston: Appalachian Mountain Club, 1892): I, Lee 26-27, and Rothman *Preserving Different Pasts* 15.

transformative, later became the basis for the Field Columbian Museum in Chicago. The popularity and reach of the exhibition was so wide that it, "...ignited a general interest in the southwestern relics, furthering the development of public interest in Indian cultures." The pattern of exhibition and public interest continued to grow in the following years, with an especially impressive display at the 1904 Louisiana Purchase Exposition in Saint Louis.¹⁵² All of these displays brought the story of American prehistory to life for many people for the first time, fueling an enthusiastic curiosity throughout the country and the world.

Feeding off of the research done within universities, and the popularity of the American exhibitions, museums also began to form their own standing collections. The National Museum in Washington, D.C. started to expand upon smaller existing American Indian collections. In 1889, the University of Pennsylvania, working with its own academic departments, established the Museum of American Archaeology. The year 1894 saw the expansion and strengthening of the anthropology department at the American Museum of Natural History in New York City. Within a few years of these developments, anthropological and archaeological collections and exhibits popped up in locations throughout the country, from Yale University to the Minnesota Historical Society to the University of California-Berkeley.¹⁵³ These developments showed the diverse and widespread interest in the antiquities and relics of the distant American past. The diverse and far-reaching nature of the collections also offered Americans the chance to connect with that past, and understand these objects and places' role within the new,

¹⁵² Francis P. McManamon, "The Antiquities Act and How Theodore Roosevelt Shaped It," *The George Wright Forum*, 31, 1 (2014):326, Rothman *Preserving Different Pasts* 14 and 17, quotation on 17, and Snead 21-24.

¹⁵³ Lee 24-25, McManamon 326, and Snead 25-28.

broadier conception of an emerging American culture. Greater public awareness of the existence of these early societies led to an ever-increasing demand not only for knowledge, but for artifacts from these groups, both from established cultural institutions and entrepreneurial individuals. Thus the broadening of awareness encouraged the excavation of objects and ruins to meet an ever increasing demand.

From Cowboys to Pothunters to Museums: The Discovery and Abuse of Early American Ruins

The interest in and pressure for American relics created a new business in the southwestern region of the country: artifact hunting. Many different types of people and organizations began searching the countryside for yet-discovered objects of American antiquity: “The desires and needs of growing numbers of collectors and dealers, exhibitors and curators, teachers and students, added to the native curiosity of cowboys, ranchers, and travelers, created an avid demand for original objects from the cliff dwellings and pueblo ruins of the Southwest.”¹⁵⁴ Individuals partaking in the new venture of artifact hunting fall into three categories: 1.) the uneducated takers, 2.) professional collectors, and 3.) scientific professionals. First, and at the most basic level, were those individuals who either lived in or traveled through the Southwest and came upon valuable objects. Many ranchers, cowboys, and even tourists, during prospecting and vacationing trips, often became the first people of European heritage to come upon the ruins of past civilizations. These individuals were likely to take objects, often without quite knowing what they were doing or the true value of such artifacts.¹⁵⁵ However, some individuals, especially those who lived in the local area, came to the realization that

¹⁵⁴ Lee 29 and McManamon 326.

¹⁵⁵ Lee 29-30, Rothman *Preserving Different Pasts* 14-15 and Snead 113.

a profitable business could be had for those willing to do the work of discovery and excavation.

The second group of American antiquity prospectors therefore consisted of locals and cultural experts seeking to unearth and deliver items to everyone from private collectors to museums, both at home and abroad. Often referred to as “pothunters” these individuals sold both their knowledge of the land and their ability to find artifacts to the highest bidder. They worked quickly and efficiently, destroying sites and structures in order to collect as much as they could. While these individuals’ business-like approach led to the destruction of many important areas and the sale of essential relics that could provide incredible knowledge to researchers, private collectors and museums enlisted their business in order to beat out competition seeking the same.¹⁵⁶ A rancher by the name of Richard Wetherill represents the quintessential example of such businessmen. Wetherill took over his family’s ranching business and in the process of grazing and developing land, came across many important American ruins which they turned into a profitable endeavor.¹⁵⁷ As Wetherill and his counterparts continued to develop an incredibly lucrative business, knowledge of America’s prehistory suffered from the loss of artifacts and the devastation of ruins. The scientific community, the third category of

¹⁵⁶ Brian Isaac Daniels, *A History of Antiquities Ownership in the United States, 1870-1934*, (Dissertation, University of Pennsylvania, 2012): 91-93, Snead 12-14, and Richard Waldbauer and Sherry Hutt, “The Antiquities Act of 1906 at Its Centennial,” *CRM Journal* (Winter 2006): 40-41.

¹⁵⁷ Wetherill and his brother are credited with finding major ruins such as Cliff Palace and other areas that are now part of the Mesa Verde National Park in southwestern Colorado. With these discoveries, the brothers worked to excavate whatever they could and began selling artifacts in the local newspaper. Word of Wetherill’s abilities and access to these incredible ruins soon spread, and he established a number of clients who paid him to find whatever they were seeking. One particularly famous exchange occurred between Wetherill and a well-known Swedish archaeologist and arctic explorer by the name of Gustav Erik Adolf Nordenskjöld. The explorer enlisted Wetherill’s help and formed an incredibly large collection of American artifacts, sending all of them to Sweden where they still reside today. While many wonder how Wetherill was able to get away with sending so many objects across American borders and into Sweden, it all came down to the fact that no regulations or laws existed to protect American prehistorical objects from removal or looting; even to individuals outside of the country. Daniels 88-90, 93, Snead 18-21, and Waldbauer and Hutt 40-41.

interested individuals, feared that all clues to the past would be lost before anyone could stop it.

As discussed above, the professionalization of anthropology and archaeology in America helped to bring about a broader awareness of earlier civilizations and cultures in the nation's borders. Unfortunately for scientific researchers, many of the most fruitful and important locations for such research suffered at the hands of the entrepreneurial efforts by professional collectors before scientific efforts really began to develop. Thus a general apprehension regarding the condition of these areas formed within the broader scientific community, as they competed with private efforts that cared little for anything but the monetary value of the discoveries. According to a history on the Chaco Canyon region,

...certain concerned persons from lay and professional ranks began to speak out against the rapidly growing practice of uncontrolled searching for and sale of relics in Southwestern Indian ruins. In their view, sites were being vandalized and scientific information destroyed. Recovered specimens were ending up in private hands or on the shelves of curio stores rather than in institutions of learning.¹⁵⁸

Scientists feared that if private projects like these continued unabated, nothing would be left to help Americans understand the history of their native lands. "They believed that they held the key to unlock the secrets of prehistoric life, but if pothunters were allowed to comb the ruins for artifacts, overturning walls and destroying the evidence of the past, then the future of anthropology and archaeology as important sciences could not be realized." As a result, professionals realized that some form of protection for these antiquities and surrounding areas needed to be implemented. It soon became clear that

¹⁵⁸ Robert H. Lister and Florence C. Lister, *Chaco Canyon*. (Albuquerque, NW: University of New Mexico Press, 1981): 47.

the protection should come from the federal government, and proposals for legislation began to trickle into the halls of Congress.¹⁵⁹

Early Legislation for the Protection of Specific American Ruins and Antiquities

While the major efforts for antiquities protection occurred in the first years of the 20th century, a few noteworthy earlier attempts deserve mention. In the spring of 1882, members of the New England Historic Genealogical Society sent a petition to Congress asking for protection of archaeological ruins within the American southwest. They focused specifically upon the territories of New Mexico and Arizona as the group worked closely with the newly formed Archaeological Institute, whose members had been working in the Pecos region of New Mexico and saw the devastating effects of private excavators. In their petition dated May 8, 1882, the society asked:

...that at least some of these extinct cities or pueblos, carefully selected, with the land reservations attached and dating mostly from the Spanish crown, of the year 1680, may be withheld from public sale and their antiquities and ruins be preserved, as they furnish valuable data for the ethnological studies now engaging the attention of our most learned scientific, antiquarian, and historical students.¹⁶⁰

Senator Hoar of Massachusetts presented the petition, as he was sympathetic to the cause having served in such positions as a trustee of the Peabody Museum at Harvard and a regent of the Smithsonian Institution. The petition received consideration by the Public Lands Committee, but did not result in a bill. Members of the committee believed the request to be too general; that it would be near to impossible for the federal government to provide adequate protection to so many areas. Instead they encouraged the society and other concerned individuals to essentially try and beat the private

¹⁵⁹ Daniels 106-207, Lister and Lister 47, *Preservation of Historic and Prehistoric Ruins, Etc.: Hearing before the Subcommittee of Public Lands*, 58th Cong., Doc. No. 314, 4 (April 22, 1904), and Rothman *Preserving Different Pasts* 14-15, quotation on 14.

¹⁶⁰ Lee 9-10.

collectors to ruins in order to save them.¹⁶¹ Hence the earliest effort for federal protection failed, as the recommendation proved to be too wide-ranging for those who took it under consideration.

Despite the disappointing result of the 1882 New England Historic Genealogical Society effort, concerned citizens and professionals continued to seek protection for historical sites. The first successful attempt occurred in the late 1880s, in the Casa Grande region of Arizona. In 1886, Frank H. Cushing of the Bureau of Ethnology published a report on the Casa Grande area as an ancient ruin and landmark known to inhabitants of the region for centuries. Reproduced as an article in *The Boston Herald*, Cushing's findings became widely known within Massachusetts and the Northeast. The need and desire to provide protection for such an important American ruin led to the petitioning of Congress by 14 influential individuals from the city of Boston. Oliver Wendell Holmes and Ann Cabot Lodge (wife of Henry Cabot Lodge), amongst other prominent citizens, graced the petition with their signatures.¹⁶²

Due to its specific nature, and the importance of its backers, Congress included a provision for the protection of Casa Grande in the Sundry Civil Appropriations bill of March 2, 1889. The provision appropriated \$2,000 for the protection of the site, and granted the president the power to withdraw land: "...the President is authorized to reserve from settlement and sale the land on which said ruin is situated and so much of the public land adjacent thereto as in his best judgement may be necessary for the protection of said ruin and ancient city of which it is a part." Congress continued to

¹⁶¹ Lee 8-12, John Ise, *Our National Park Policy: A Critical History*, (Baltimore, MD: Johns Hopkins Press, 1961):

144, McManamon 328, and Rothman *Preserving Different Pasts* 14-15.

¹⁶² Ise *Our National Park Policy* 147, Lee 16-18, and McManamon 328-329.

budget appropriations for the protection of Casa Grande for years to come.¹⁶³ The effort to guard Casa Grande from careless damage and destruction proved successful because it did not require a general protection for broad swaths of land. Instead, it focused on a particular site with a particular outcome, and thus appeared more manageable in the eyes of Congress members.

The Casa Grande provision is particularly interesting, not because it was the first law passed to protect American antiquities, but that it provided the presidency with a rather discretionary power to withdraw the land around ruin. Congress entrusted the president with the authority to determine the reservation's boundaries and size, which "...in his best judgement may be necessary for the protection of said ruin and ancient city of which it is a part." (Emphasis added.)¹⁶⁴ Thus Congress granted the president withdrawal power in 1889, two years even before the passage of the Forest Reserve Act which permitted the president to withdraw lands generally for forest reserves, even though the Casa Grande supporters made no such demand within their petition. The 14 concerned citizens did not even mention the president in their request, and yet Congress accorded the power to the presidency, and provided some flexibility with the power to boot. It may not be possible to claim any direct connection between the Casa Grande provision and the broader authorities later granted to the presidency in terms of land withdrawal, but it does show Congressional endorsement for such in the lead up to these authorities' passage. Thus the foundation for legislation to safeguard American antiquities was laid.

¹⁶³Ise *Our National Park Policy* 147, Lee 16-18, McManamon 328-329, and Sundry Civil Act of 1889, (March 2, 1889).

¹⁶⁴ Sundry Civil Act of 1889, (March 2, 1889).

Congressional Action: The Development and Passage of the Antiquities Act of 1906

Writing and passing a law to protect American antiquities required a number of efforts over seven years. Three major attempts to pass legislation occurred during the 56th, 58th, and 59th Congresses. Each of the iterations helped to flesh out the format and conditions required for a successful law that appeased all interested parties.

The 56th Congress: Five Unsuccessful, yet Influential, Proposals

During the 56th Congress of 1899-1900, Congress members presented and considered five different bills related to the preservation of American ruins and relics. Members of Congress from the western states of Iowa and Colorado sponsored each of the proposals, some with the hopes of a broad power to make it easier to designate protected areas, and others with the intent of limiting any such grant of authority to the only that which was most needed. Representative Dolliver of Iowa introduced the first bill for House consideration, H.R. 8066. Since this bill was the first to be presented in this session, and the first to be considered in a number of years, it by nature served as a jumping off point for all bills that followed. The bill received the support of the American Association for the Advancement of Science and the Archaeological Institute of America.¹⁶⁵

H.R. 8066 granted the power to set aside reservations for the protection of determined antiquities to the presidency. The bill provided the executive with extensive withdrawal powers:

...the President of the United States [or the Secretary of the Interior, or the Commissioner of the General Land Office, under his direction] shall have the right, power, and authority to withdraw from sale and set aside for use as a public

¹⁶⁵ Robert Claus, *Information about the Background of the Antiquities Act of 1906*, (Washington, D.C.: Department of the Interior, Division of the Archives, 1945): 2, Ise 149 and Lee 48-50.

park or reservation, in the same manner and form as now provided by law and regulation for forestry reservations...¹⁶⁶

The reference to the Forest Reserve Act of 1891 is especially interesting, as the authors recognized its precedent, and wished to follow in the footsteps of this broad, general authority. The proposal also offered the presidency a wide variety of objects and places to protect, including those not only of historic value, but "...also any natural formation of scientific or scenic value or interest..." Additionally, the bill provided the presidency the power to determine the size of the reserves, with no limitations placed upon the president's decision. The responsibility required him to define "...such area of land surrounding or adjoining the same as he may deem necessary for the proper reservation or suitable enjoyment of said reservation."¹⁶⁷ The broad and discretionary nature of the proposed bill rose more than a few Congress members' eyebrows, particularly those in the Western regions of the country. As a result, the bill died in committee, but still laid the foundation for legislative proposals in the future.

For the first antiquities protection bill, the future came quite quickly. One day after Mr. Dolliver presented H.R. 8066 to the House, Representative Shafroth of Colorado offered a response bill. Quite simple in nature, Shafroth's proposal simply made it a federal crime for vandals to steal, or attempt to remove, objects of American antiquity from public lands. The bill offered no protection, however, for the lands upon which these artifacts could be found. Thus Shafroth hoped to prevent the abuse of American prehistoric items with the threat of prosecution, but not at the expense of the

¹⁶⁶ H.R. 8066, 56th Cong. (1900).

¹⁶⁷ Claus 2-3, H.R. 8066, 56th Cong. (1900), Ise 149, Lee 48-50, 57 and Rothman *Preserving Different Pasts* 21.

Western landowner. Perhaps due to the hasty and simplistic nature of the recommendations, H.R. 8195 did not make it past committee consideration.¹⁶⁸

Not to be defeated however, Representative Shafroth tried again with a second bill, H.R. 9245. This bill appeared to be a compromise bill between his first attempt and that presented by Representative Dolliver. The proposal permitted the U.S. Geological Society to determine what items and ruins should be protected, and the Secretary of the Interior to withdraw small sects of land around said antiquities, limited to no more than 320 acres. The Bureau of American Ethnology would then be required to take care of both the lands and any acquired objects from them. H.R. 9245 consequently laid the foundation for the involvement of executive agencies within the process of land withdrawals, and the idea that limits upon the size of the reservations should be included. While Shafroth's second attempt met with the same end as his first (death by committee), it showed that Western concerns over public land withdrawals existed and needed to be taken seriously.¹⁶⁹ These early legislative attempts in 1900 are particularly informative as they proved the unease with which Westerners already viewed land withdrawal by the federal government and the president, even before Theodore Roosevelt entered the White House and further expanded the use of the Forest Reserve Act beginning in 1901.¹⁷⁰

The above three bills provided the House Committee on Public Lands the chance to seriously consider the proper merits of a law for the protection of American antiquities.

The result of their deliberations came in the form of H.R. 10451. The committee's

¹⁶⁸ H.R. 8195, 56th Cong. (1900), Ise 149-150, Lee 51-52, 57, and Rothman *Preserving Different Pasts* 21.

¹⁶⁹ Claus 3, H.R. 9245, 56th Cong. (1900), Ise 149-150, Lee 51-52, 57, and Rothman *Preserving Different Pasts* 21.

¹⁷⁰ Presidents Harrison, Cleveland, and McKinley all used the power to set aside forest reserves on public land as granted to the presidency in the Forest Reserve Act in 1891 with enthusiasm. When Theodore Roosevelt took over the presidency with the assassination of McKinley in 1901, he took that enthusiasm to new heights. For more specific details of the presidents' implementation of the Forest Reserve Act of 1891, see Chapter II: National Forests.

proposal included similar features to that seen in Shafroth's second bill, but with further limitations placed upon the withdrawal authority. The proposal provided the Secretary of the Interior, not the president, the ability to set aside lands surrounding prehistoric objects, and limited said areas to 320 acres only within specific states (Colorado and Wyoming) and territories (Arizona and New Mexico). The bill focused only on historic and prehistoric relics, so that the Secretary could not broaden the authority for scientific or scenic inclusions.¹⁷¹ This proposal proved that the members of the Committee on Public Lands, consisting of a number of Westerners, only wished to grant authority on a limited scale. Even with this more limited approach, the bill did not make it beyond committee consideration.

The final bill of the 56th Congress for the preservation of American prehistory presented the executive agency perspective. The Commissioner of the General Land Office, Binger Hermann, received copies of the bills under consideration on the subject from the head of the Committee on Public Lands, Representative John Lacey of Iowa. Hermann, finding all of the options lacking, wrote his own bill and sent it to Lacey for introduction and consideration. Hermann, similar to Representative Dolliver, preferred a general authority granting the power to protect American prehistoric objects, and the lands surrounding them, rather than requiring individual requests for each area or set of relics. Consequently, H.R. 11021 provided the president the ability to "...set apart and reserve tracts of public land, which for their scenic beauty, natural wonders or curiosities, ancient ruins or relics, or objects of scientific or historic interest, or springs of medicinal or other properties it is desirable to protect and utilize in the interest of the public." As

¹⁷¹ Claus 6, H.R. 10451, 56th Cong. (1900), *House Report No. 1104*, "Preservation of Prehistoric Monuments, Etc.," House Committee on Public Lands, 56th Congress, 1st Session, April 21, 1900: 1-2, and Lee 56-57.

the language shows, the bill offered the president wide discretion in determining the extent and nature of the reservations. Yet once again, hesitation amongst committee members regarding such an authority prevented the bill from progressing out of committee. However, the bill continued to be introduced within Congress by Representative Lacey year after year, despite the fact it never made it beyond committee.¹⁷² These actions by Lacey may have meant that he saw some merit in the permissions it granted, or it could simply have been a maneuver to keep the GLO appeased by presenting their proposal.

The importance of the GLO proposal, however, laid not in the fact that Lacey introduced it year after year, but that the major national land agency continually recommended increased presidential power in land withdrawal. This agency endorsement of such power would prove essential in the debates of the 58th and 59th Congresses. Additionally, H.R. 11021 included key language that eventually made it into the final Antiquities Act of 1906. The proposal allowed the president to set aside lands with different types of items, including those of “...scientific or historic interest...” a key phrase that later found a home in the actual act, though with the slightly altered wording of “...historic or scientific interest...”¹⁷³ This phrase would eventually play a particularly important role in the implementation of the Antiquities Act and the impact on the power of the presidency. Considering that Lacey would eventually sponsor the final antiquities bill, inspiration may have directly come from these previous attempts.

¹⁷² Claus 3-6, H.R. 11021, 56th Cong. (1900), Ise 150, Lee 52-56, Ronald Lee, *The Story of the Antiquities Act*, (Washington, D.C.: National Park Service, 1970): footnote 109, and Rothman *Preserving Different Pasts* 22.

¹⁷³ H.R. 11021, 56th Cong. (1900) and Antiquities Act of 1906, 16 U.S.C. §§ 431-433 (1906).

All five attempts for antiquities preservation during the 56th Congress never made it beyond committee consideration. The fact that there was little consensus amongst those representatives that hailed from impacted states and those who directly worked with public lands professionally, both in and out of government, led to their eventual demise. These differences of opinion regarding withdrawal authority and the extent of discretion for preservation would continue to haunt the efforts that followed.

The 58th Congress: The Battle of the Professionals

Leading up to the next formal attempt for legislation protecting American antiquities, the federal government worked to find ways in which to informally, and at least temporarily, protect the threatened ruins and objects. The GLO, aware of the ongoing private efforts to remove valuable prehistoric American items, began to use its jurisdiction to provide some level of protection. “Beginning in the early 1890s, the commissioners of the GLO actively pursued a policy of withdrawing places with archaeological, historical, or natural significance from settlement and other kinds of land claims. GLO special agents in the field brought these places to the attention of the bureau.” Unfortunately for the GLO, current law did not designate that objects on public lands belonged to the land’s owner, the federal government. However, they did what they could to keep the relics from landing in the wrong hands, all the while recommending a law that provided the agency with direct authority to take care of those items on public property. For example, the GLO often challenged homestead claims that had been made by individuals clearly seeking to use the land for profit by removing prehistoric objects. The question of whether this was legal however, remained to be decided by a law that allowed the government to protect resources upon its lands. Many

in the western regions of the country saw the relics as resources similar to timber and minerals, and thus should be open to the use of the American citizen. The federal government however, led by the GLO, saw these items as different; as something to be preserved for cultural and historical development.¹⁷⁴ This difference of opinion characterized the debate of land ownership between the government and its people.

Fortunately for the GLO and anthropological and archaeological professionals, serious consideration of antiquities legislation began again in 1904. During the 58th Congress, two proposals received wide attention, one of which seemed on its way to passage. The first of these two offerings came to fruition thanks to Henry Mason Baum, founder of the Records of the Past Exploration Society. An extensive tour of the Southwest convinced Baum of the need for legislation to preserve American antiquities. Presented first in the House by William Rodenberg of Illinois, and then in the Senate by Henry Cabot Lodge, the bill received wide support. Rodenberg understood the need for outside patronage, and thus he sent copies of the bill to archaeologists, anthropologists, and university presidents for their input and guidance. This action by Rodenberg encouraged widespread backing, leading to pressure upon members of Congress.¹⁷⁵

The bill focused primarily on defining the term “antiquity” and what agencies or individuals would have access to them for their preservation and study. During a hearing for the bill, the secretary of the Archaeological Institute of America described this focus as such: the “legislation should at this time be preservative rather than administrative. It should not attempt to deal with the things that may arise in the future.” The Lodge bill, as it became known, essentially allowed for the removal of antiquities for the study by

¹⁷⁴ Lee 44-46 and Rothman *Preserving Different Pasts* 26-27, 54 including quotation.

¹⁷⁵ Claus 6-7, Lee 58-61, and Rothman *Preserving Different Pasts* 38-40.

professionals; the archaeologists and anthropologists that offered their support.¹⁷⁶ The simplicity of the bill, and its favoring of professionals, made the proposal quite popular amongst outside interests and Congressional members. However, since the bill did not include governmental agencies, it essentially created its own opposition which would present its own recommendation: the Smithsonian bill.

As the informal name of the second proposal suggests, members of the Smithsonian Institution authored and supported it. Representative Robert Hitt and Senator Shelby Cullom of Illinois, regents of the Smithsonian, sponsored the bill in the House and Senate. The Smithsonian opposition saw the Lodge bill as self-promotion. They believed that Baum and other professionals simply wanted the objects *to be protected from* other private, for-profit individuals and businesses, so that they may essentially “belong” to them and them only, for research and study. To the Smithsonian supporters, the Lodge bill provided government protection for the benefit of a narrow, private constituency. Meanwhile, the Smithsonian defenders believed they were truly working to preserve American culture and heritage for the benefit the American people.¹⁷⁷

Despite the two sides’ strong beliefs, their respective bills did not differ dramatically in their overall goals. The Lodge bill *allowed the Secretary of the Interior* to withdraw tracts of land smaller than 640 acres temporarily and/or permanently, as needed for the removal and study of antiquities. It did not provide any power to the president for withdrawal; however Baum stated in a hearing that the president *could* be the authority, as long as the withdrawals remained limited in size. Once the Secretary of

¹⁷⁶ Claus 6-7, H.R. 13349, 58th Cong. (1904) Lee 58-61, Rothman *Preserving Different Pasts* 38-40 and S. 5603, 58th Cong. (1904).

¹⁷⁷ Lee 61 and Rothman *Preserving Different Pasts* 39-41.

the Interior withdrew these public lands, “incorporated” groups could apply for permits in order to dig for and remove the antiquities. The Smithsonian proposal was not much different, except in regards to the withdrawal authority. The bill allowed *for the president* to “...declare the establishment of such reservations and the limits thereof.” Otherwise, the lands and relics were to be treated similarly, although the Smithsonian Institution received the ultimate authority over the ruins and relics, rather than the Secretary of the Interior granting permits to outside institutions.¹⁷⁸ So in the end, the major differences between the two approaches lied not with the need and provision of preservation, but rather how this preservation would come to be.

Even though the Smithsonian supporters tried their best to derail the Lodge bill, the outside support for the proposal propelled the bill to near passage. The Lodge bill received support from the Senate Public Lands Committee, which recommended that the chamber pass the bill. On April 26, 1904, towards the end of the 59th Congressional session, the Senate passed the bill. In the House, the Public Lands Committee also recommended passage, yet supporters sympathetic to the Smithsonian blocked the bill with a parliamentary maneuver. Unfortunately for those supportive of the Lodge recommendation, the end of the session came before the maneuver could be circumvented, thus ending any hope for passage during the 58th Congress.¹⁷⁹ As a result, the federal protection of American antiquities would be forced to wait again. The divisions between the two sides came down to whom or what would administer the

¹⁷⁸ H.R. 12447, 58th Cong. (1904), H.R. 13349, 58th Cong. (1904), *Preservation of Historic and Prehistoric Ruins, Etc.*, Rothman *Preserving Different Pasts* 39, S. 4127, 58th Cong. (1904), and S. 5603, 58th Cong. (1904).

¹⁷⁹ Ise 151-152, Lee 63-64, and Rothman *Preserving Different Pasts* 41.

antiquities once they had been preserved.¹⁸⁰ And despite the desire by the executive agencies, like the GLO, to see a law pass, in the end the Smithsonian Institution prevented the bill from becoming law. Hence it appeared that the law would need to be broader and delegate authority over the ruins and relics to more impartial entities. With this focus on a much needed compromise in terms of administration, a newcomer to the scene would help to bridge these administrative divides.

The 59th Congress and the Passage of the Antiquities Act: An Insider and Outsider to the Rescue

All efforts for a bill to preserve American antiquities before 1906 dwindled in spite of extensive support for the law's general purpose. Ironically, widespread backing induced failure as too many interested groups sought their own best, and consequently different, outcomes. Therefore the successful passage of a law needed a leader who could see past the differing opinions. Fortunately for the protection of American antiquities, one such person entered the fore: Edgar L. Hewett.

Hewett served as an ideal mediator for a new, compromised, effort for two main reasons. First, he had experience and credentials when it came to the knowledge of antiquities and their discovery. Hewett's interest in American antiquities originated while working in the excavation of sites in the Southwest region of the country. In 1901, he became a fellow of the American Association for the Advancement of Science and lifetime member of the Archaeological Institute of America. Hewett then pursued graduate work at the University of Geneva under the tutelage of many famed archaeologists, believing that formal scholarly work would boost his professional status. In 1906, Hewett became a fellow in American Archaeology with the Archaeological

¹⁸⁰ *Preservation of Historic and Prehistoric Ruins, Etc.* and Rothman *Preserving Different Pasts* 41-42.

Institute of America, extending his research beyond the confines of the Southwest into Mexico. Second, Hewett worked closely with the government and knew many officials at the Department of the Interior. While Hewett began his work in the Southwest as a private individual, similar to those discussed above whom had made a living from such activities, he was not in it for personal gain. Hewett consequently reached out to federal officials in order to gain their approval and partner in his efforts. Between 1900 and 1904, Hewett worked with various officials including Representative John Lacey and GLO Commissioner W.A. Richards. These two assets made Hewett a respectable and credible expert to both professionals and government administrators.¹⁸¹

Hewett furthered his reputation in professional and governmental circles as the leader of a federal assessment of American antiquities and Southwestern archaeological areas. It was the first time that the government, or any group, attempted to collect comprehensive data on what ruins, objects, and relics existed within the region. When it came time to select the right person to lead the project, the GLO picked Hewett. Hewett's report was unbiased and fact-based, with recommendations for consideration. Showing no strong favoritism to any particular agency, Hewett again appeared reputable and trustworthy to those within the government, archaeology, and anthropology. Hewett understood that he could not make any recommendation regarding the overall administration of antiquities collection should legislation be passed to provide for their protection. He knew of the difficulties previous legislative attempts faced due to the Smithsonian and the Department of the Interior, and therefore wished to remain non-

¹⁸¹ Lister and Lister 47, Rothman *Preserving Different Pasts* 42-43, Snead 53, 77, and Waldbauer and Hutt 41.

combative for the moment on this point of contention.¹⁸² Hewett's pragmatic, middle-of-the-road approach felt like a breath of fresh air after the Lodge-Smithsonian debate of the 58th Congress, and placed Hewett in a prime position to create legislation amenable to all involved.

With the failure of the 58th Congress Lodge and Smithsonian bills, the professional and governmental sides of the debate realized they needed to act so as not to miss another opportunity for what they all agreed was an important law. Realizing that enthusiasm for the law would not last forever, supporters on both sides recognized the need for action before its decline. Hewett proposed language for a compromise bill. The new version contained a major difference from the Lodge and Smithsonian attempts: it did not assign authority to a particular governmental agency over the withdrawn areas. Any lands withdrawn under the law would remain under the purview of their current federal agency. This meant that established spaces would be cared for by three different departments: Interior, Agriculture, and War. Hewett realized that the jurisdiction question prevented passage during the previous session, and thus concluded: "better a system with a number of responsible authorities than no system at all." By removing this point of contention, passage would become much easier.¹⁸³

In addition to the addressing the major point of contention, Hewett worked closely with both sides of the debate when constructing the language for his proposed act. Hewett presented a draft to a joint meeting of the Archaeological Institute of America and the American Anthropological Association in December of 1905. The bill met with approval from both archaeologists and anthropologists as its chief purpose matched both

¹⁸² Claus 9-11, Lee 70, McManamon 334, and Rothman *Preserving Different Pasts* 43-47.

¹⁸³ Ise 152 and Waldbauer and Hutt 42.

of theirs. With the backing of these two major groups, Hewett sent a draft to Representative Lacey for introduction in the House. Senator Patterson of Colorado introduced a companion bill in his chamber in February 1906.¹⁸⁴

The new language contained three important aspects related to the power of the presidency. First, the president, not the Secretary of the Interior, received the authority to establish the reserves, which would be called national monuments. Second, the president could not only create reservations, but could also determine the limits of the areas to be set aside: "...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 the proper care and management of the objects to be protected..." This particular provision therefore allowed the president great discretion over the size of the protected areas, a very different approach from many of the previous bills. As discussed above, most of the proposals from earlier years called for specific acreage limitations, usually 320 or 640 acres. By not providing an exact number of acres, the bill handed much more power to the presidency than may have been realized at the time.¹⁸⁵

Third, the language of the bill allowed the president to create reserves for more than just historical or cultural preservation. The bill stated that the reserves could be created to protect "...objects of historic or scientific interest..." As discussed above, this phrase mirrors one seen in legislative proposals by the Department of the Interior in their yearly report from 1900 to 1904. Representative Lacey introduced bills on behalf of the department during those years, using the "historic and scientific interest" phrase and

¹⁸⁴ Ise 152, McManamon 334-335, and Snead 78-79.

¹⁸⁵ *Annual Report of the Commissioner of the General Land Office to the Secretary of the Interior*, General Land Office, (Washington, D.C.: U.S. Government Printing Office, 1901): 115-117, H.R. 11016, 59th Cong. (1906), Lee 74-75, and Rothman *Preserving Different Pasts* 46- 47.

allowing for even broader presidential discretion by including lands set aside for their “scenic beauty,” “natural wonders,” and “springs of medicinal or other properties.” The GLO’s annual reports from 1900 to 1904 made requests for this power to be granted specifically to the presidency, rather than Congress, as past attempts at individual land withdrawals within Congress continually faced delays due to competing interests. By including a portion of the language recommended by the Interior Department on multiple occasions, Hewett helped to appease the department by giving them a more discretionary law in terms of what could be set aside, even if with less words than their original proposal suggested.¹⁸⁶ Thus the bill presented by Lacey and Patterson bridged the gaps which had previously thwarted the goal of federal protection for American Antiquities, and in the process granted the presidency an expansive unilateral power.

In Congress, both chambers considered the merits of Hewett’s bill. In the Senate, the popularity of the bill, and its sponsorship by Senator Patterson, a westerner, ensured a smooth and swift process. According to the *Congressional Record*, the bill was read on the floor to the members, submitted to the Committee on Public Lands which recommended its passage with a report, and passed on May 24, 1906. In the House, the bill followed a similar pattern with one key difference of a short debate during its consideration on the floor. On June 5, 1906, Representative Lacey submitted the bill, requesting unanimous consent for its passage. Members of the House heard the bill, and offered questions. Representative Stephens of the state of Texas raised a query regarding the overall extent of the bill. Stephens inquired as to whether the bill referred to a specific plot of land, or whether it provided the opportunity for multiple designations in

¹⁸⁶ H.R. 11016, 59th Cong. (1906), Lee 74-75, Rothman *Preserving Different Pasts* 47, and Waldbauer and Hutt 42.

the future. Representative Lacey stated that the bill offered a general, not specific, power of establishment. Stephens declared that he preferred legislation providing independent reserves, rather than a general authority. Lacey replied that the lands to be withdrawn were not be like national parks, and instead would focus on smaller areas around specific objects.¹⁸⁷

Stephens continued to push the subject by asking whether the land would be prohibited from sale, and if a specific acreage for them had been considered. Lacey responded that the lands would be prohibited from sale, but that the lands would be: “Not very much. The bill provides that it shall be the smallest area necessary for the care and maintenance of the objects to be preserved.” Stephens then specifically demanded to know whether the new authority would be similar to that provided within the Forest Reserve Act of 1891, as the lands set aside under that law were generally larger in scale. Lacey again asserted that “... [the new law’s] object is entirely different...” and would only focus upon specific, smaller areas around particular items or ruins. With Representative Stephens appeased by these answers, floor debate ended. Thus the bill passed the House that same day, June 5, 1906. Both houses of Congress supported the act with a unanimous vote. So in the end, Democrats and Republicans, Westerners and Easterners, supported the act to protect American prehistoric objects and places. On June 8, 1906, President Theodore Roosevelt signed the bill into law, formally creating the Antiquities Act of 1906.¹⁸⁸

¹⁸⁷ Jeanne Nienaber Clarke and Kurt Angersbach., “One Hundred Years of National Monuments,” *Culture and Society* (May/June 2006): 76-77, Claus 12, *Congressional Record*, House, June 5, 1906, pg. 7888, and *Congressional Record*, Senate, May 24, 1906, pg. 7331.

¹⁸⁸ Clarke and Angersbach 76-77, Claus 12, and *Congressional Record*, House, June 5, 1906, pg. 7888.

The Antiquities Act appeared to be a simple, limited bill. The main purpose of protection of American antiquities, small objects and ruins, seemed harmless. While the president gained new power, it would not mean much; certainly not something to rival the lands withdrawn under the Forest Reserve Act of 1891. Congress members at the time may not have consciously recognized the magnitude of the authority granted to the presidency, but, “the general intent of the legislation was clear: Congress wanted to protect the nation’s antiquities by delegating authority to the executive branch.”¹⁸⁹ And according to a preeminent scholar on the Antiquities Act and national monuments, “No piece of legislation invested more power in the presidency than did the Antiquities Act of 1906.”¹⁹⁰ However, the history of the Antiquities Act could have been much different had presidents not, or only rarely, used the authority. Once again it would take consistent presidential implementation to make this law worthy of mention and study in terms of executive power.

Presidential Action: A Century, and Counting, of National Monuments

Monuments and Precedents: Theodore Roosevelt as the First Antiquities Act President

Congress, within fifteen years of the Forest Reserve Act and three years of the first wildlife refuge establishment, provided the presidency with a new authority to withdraw public lands. The Antiquities Act, with its simple yet vague language, offered the presidency an authority more powerful than that provided by the Forest Reserve Act and the executive initiative taken with the creation of the first national wildlife refuge.

The broader nature of the Antiquities Act as compared to the Forest Reserve Act resided

¹⁸⁹ Michelle Belco and Brandon Rottinghaus, “The Law: Presidential Proclamation 6920: Using Executive Power to Set a New Direction for the Management of National Monuments,” *Presidential Studies Quarterly*, 39, 3 (September 2009): 607.

¹⁹⁰ Hal Rothman, *Saving the Planet The American Response to the Environment in the Twentieth Century*, (Chicago: Ivan R. Dee, 2000): 52.

in the phrase “...objects of historic and scientific interest...” as it allowed the president to determine what “objects,” “historic,” “scientific,” and “interest” meant. The Forest Reserve Act provided authority to withdraw lands for forests and to protect watersheds, nothing more. But the Antiquities Act granted something much more by allowing the president to set aside public lands for a multitude of reasons. As compared to the formation of the first national wildlife refuge by presidential action alone, the Antiquities Act delegated the power of establishment to the president, thus providing the full legal backing of a Congressional statute. Consequently, the new law built upon the precedent of the Forest Reserve Act and the national wildlife refuges by being a discretionary *and* delegated power. Whether the law would realize its full potential depended upon its use by successive presidents.

As the bill passed through the chambers of Congress in 1906, President Theodore Roosevelt not only signed it into law, but received the first chance to use the new authority. On September 28, 1906, upon the recommendation of the General Land Office, Roosevelt established the country’s first national monument, Devils Tower. Located in the state of Wyoming, the 865 foot geological abnormality attracted attention for centuries. Representatives both from Congress and the General Land Office had been aware of Devils Tower for years, dating back to 1892. Yet since the idea of preservation by the federal government remained nascent at the time, support for action could not be found. The GLO temporarily withdrew the lands surrounding Devils Tower in 1898, while a more permanent situation could hopefully be developed. Devils Tower in many ways represented the difficulty that the federal government faced in terms of trying to prevent damage to areas or objects located on public lands prior to the Antiquities Act.

Devils Tower was too small to be considered worthy enough for national park status, and yet considering its long history and natural wonder, deserved to be maintained for research and historic purposes.

Roosevelt's proclamation of Devils Tower National Monument provides the first glimmer of an expansive interpretation of the Antiquities Act.¹⁹¹ The president's proclamation of Devils Tower focused upon fact that the tower was mainly a natural, or scientific, wonder rather than a historical one. The first monument designated by a president therefore highlighted the secondary purpose of the law in terms of preservation, "scientific interest," rather than its primary one, "historic interest."¹⁹² Had the Lodge or Smithsonian bills of 1904-1905 passed, rather than Hewett's 1906 bill, a wonder such as Devils Tower may never have been considered for monument designation. Therefore Roosevelt showed, in a small way, the potential of the Antiquities Act's discretion from the very first monument.

Roosevelt followed a similar pattern in creating the country's first ten national monuments between 1906 and 1908. He kept to GLO recommendations for the monuments, working to make permanent the agency's temporary withdrawals. Roosevelt also established a monument especially for Representative Lacey who had a special appreciation for, and interest in, the Petrified Forest area of Arizona. In 1906, TR declared the area the nation's fourth national monument. Roosevelt's, and the country's, first ten monuments were on the smaller side in terms of acreage, ranging from 160 acres

¹⁹¹ It is also possible to argue that the size of Devils Tower Monument showed some expansion of the authority due to the fact that Roosevelt withdrew 1,193 acres for the monument. Clearly this size is much larger than the 320 or 640 acreage limit included in earlier legislative iterations. Yet the acreage remains quite limited, especially when compared to future designations. Thus the nature of the monument represents the more important exercise of presidential discretion.

¹⁹² The tower did have historical importance, but the primary reason for its withdrawal was due to its scientific, not historical, aspects.
H.R. 9245, 56th Cong. (1901), Ise 156, Lee 87-88, and S. 5603, 58th Cong. (1904).

to 60,776 acres in size.¹⁹³ The majority of the first ten monuments preserved specific ruins and relics, paying tribute to the Antiquities Act's primary goal of protecting significant historical objects and areas.

Then in 1908 Roosevelt set aside his eleventh area, the Grand Canyon National Monument, and truly tested the boundaries of the authority granted to the presidency. Prior to 1908, some tracts of land in the Grand Canyon region received protection as a national forest in 1893, due to pressure to protect the area as a national park.¹⁹⁴ Unfortunately for those parties interested in guarding the Grand Canyon, the national forest status did not protect the area around the rim of the canyon from commercial development. As a consequence, by the first years of the 1900s, railroad lines to the rim brought businesses catering to tourists. When conservationists discovered a plan in 1907 to build a rail line around the entire rim of the canyon, they reached out to Gifford Pinchot, Theodore Roosevelt's conservationist advisor and head of the new U.S. Forest Service, to let him know of the impending development. Roosevelt, a longtime supporter of the preservation of the Grand Canyon, decided that the Antiquities Act offered him the chance to save the canyon from possible destruction due to overzealous private development. So Roosevelt declared the Grand Canyon National Monument on January 11, 1908, withdrawing a total of 808,120 acres.¹⁹⁵

The size of the Grand Canyon monument, and the fact that its preservation rested primarily on scientific rather than historical grounds, made it the first truly expansive application of the Antiquities Act authority by a president. To Roosevelt, who had called

¹⁹³ Table V: Presidential National Monuments and Rothman *Preserving Different Pasts* 55-57.

¹⁹⁴ For more information on the Grand Canyon National Forest, see Chapter II: National Forests.

¹⁹⁵ Douglas Brinkley, *The Wilderness Warrior Theodore Roosevelt and the Crusade for America*, (New York: Harper, 2009): 756-757, Lee 90-91, McManamon 338-339, and Rothman *Preserving Different Pasts* 65-67.

for the Grand Canyon to become a national park in his 1905 addresses to Congress, his action was not only justifiable, but necessary. If he had not created the national monument, then the Grand Canyon could have been lost to private ownership forever.¹⁹⁶ Congress had been too slow to act, provided the presidency with the required power, and the president needed to do what was best for the public good.

Surprisingly, no major Congressional action or adjustment occurred in response to Roosevelt's designation of the Grand Canyon National Monument. While Roosevelt's declaration may have been beyond the original intent of the act, the Grand Canyon remained intact as a national monument until 1919. In that year the 65th Congress endorsed Roosevelt's executive decision by providing him with his original wish: declaring the monument a national park, traditionally seen as an "upgrade" in designation and protection.¹⁹⁷ Consequently, Congress provided Roosevelt's first expansive use of the Antiquities Act with the ultimate validation 11 years after the monument's creation.

The Grand Canyon designation, however, did face an important challenge in the Supreme Court. A local miner by the name of Ralph Henry Cameron brought suit against the federal government and the president for designating the Grand Canyon a national monument. Cameron had established copper mines along the southern rim of the canyon in the years leading up to its preservation. Ever the businessman, he used his control of the lands to charge tourists access fees to different parts of the canyon. Starting in 1908, Cameron faced charges from the Santa Fe Railroad Company which argued that Cameron could no longer collect fees from tourists. The case eventually made its way to the

¹⁹⁶ Brinkley 754-757, McManamon 338-342, and Theodore Roosevelt, "State of the Union Address," December 5, 1905.

¹⁹⁷ An Act to Establish the Grand Canyon National Park in the State of Arizona, February 26, 1919, ch. 44, 40 Stat. 1175 (1919) and Chapin 64-65.

For additional details on the Grand Canyon National Monument and its eventual conversion to national park status, see Chapter V: National Parks and National Wilderness Areas.

Supreme Court in 1920. One of Cameron's major arguments claimed that President Roosevelt did not have the power to legally declare the Grand Canyon a national monument, thus becoming the first and most important legal challenge to the executive authority under the Antiquities Act. The Court responded conclusively in its opinion:

The defendants insist that the monument reserve should be disregarded on the ground that there was no authority for its creation. To this we cannot assent. The act under which the President proceeded empowered him to stablish reserves embracing 'objects of historic or scientific interest.' The Grand Canyon, as stated in his proclamation, 'is an object of unusual scientific interest.'¹⁹⁸

Thus the Supreme Court joined with Congress and endorsed the power of the presidency within the Antiquities Act and the precedents created by its earliest implementations.

Roosevelt's final monument warrants a brief mention for its own contribution to the broader interpretation of the Antiquities Act. Within his last two days in office, Roosevelt received a request from a Congress member to protect Mount Olympus in the state of Washington. Similar to the Grand Canyon, Mount Olympus represented an expansive understanding of the power of the presidency within the act as Roosevelt's proclamation covered 639,200 acres. The primary purpose of the reservation hinged on the depleting natural resources in the area, including wildlife such as the Roosevelt elk which had been overhunted for decades. Roosevelt's proclamation inspired some of the first public and Congressional reactions that included petitions for the abolishment of the monument. Opposition succeeded in reducing the size of the monument by about half

¹⁹⁸ Cameron v. United States, 148 U.S.301, Chapin 64-66, Squillace 490-492, and Douglas H. Strong, "Ralph H. Cameron and the Grand Canyon (Part I)," *Arizona and the West*, 20, 1 (1978): 62-64.

under President Wilson, but in 1938 Congress converted the remaining reserve a national park, endorsing the protection once placed upon the region by Roosevelt.¹⁹⁹

Roosevelt definitively set the example for future presidents in the application of the Antiquities Act for preservation of public areas and artifacts. By the end of his time in office, the president created 18 total national monuments, the majority of which stemmed from proposals submitted by governmental agencies. Six of those monuments focused primarily on the protection of historical items and their surrounding lands. The 12 remaining sought to preserve objects and areas of scientific interest.²⁰⁰ Hence the majority of Roosevelt's designations related to the secondary objective of the Antiquities Act, rather than its primary purpose of keeping prehistoric items preserved for study and cultural development. Thus Roosevelt left behind a strong precedent regarding the methods by which a president could apply the Antiquities Act. His broader interpretation of the law reflected his eagerness to be a steward of the people, and provide what was, in his mind, best for the public good. Roosevelt's actions not only reflected his understanding of the role of the presidency, but laid the foundation for future presidents to exercise their own levels of discretion and enthusiasm in applying the act's authority.

After the First: Presidential Patterns of Establishment beyond Theodore Roosevelt
Presidential National Monuments: The Basic Numbers

Ever since Theodore Roosevelt's terms in office, presidents applied the authority granted to them in the Antiquities Act with varying levels of gusto.²⁰¹ Out of the 19

¹⁹⁹ "Chronological List of National Monuments," *National Park Service*, Available: <http://www.nps.gov/archeology/sites/antiquities/monumentslist.htm>, Rothman *Preserving Different Pasts* 68-69, and Runte 67-68.

²⁰⁰ Lee 88.

²⁰¹ A brief note on the lands eligible for monument protection: national monuments are primarily created from "...lands owned or controlled by the Government of the United States..." Thus monuments, much

presidents that had the opportunity to use the Antiquities Act, 15 of them did so. Despite what one might assume regarding presidential use by political party, the 15 presidents that created at least one national monument split rather evenly between the two parties.²⁰² Eight Democratic presidents and 7 Republican presidents used the Antiquities Act at least once during their administrations. Thus the strong conservationist purpose of the law has not deterred either party from use. Democratic presidents created 86 total monuments, while Republican presidents designated 66; another close split between parties. It is interesting to note, however, that 6 of the 7 Republican presidents who used the Antiquities Act did so between the years of 1906 and 1961, with the second of Eisenhower's monuments formed that year. George W. Bush is the only Republican president to create a national monument in nearly 54 years.²⁰³

While the absolute number of monuments created by presidents shows how willing they have been to use the act multiple times, calculating the number of acres highlights which presidents felt comfortable using the act in a more expansive manner. Perhaps surprisingly, George W. Bush, the only Republican president of recent years to use the Antiquities Act, comes in first with over 214 million acres. This is 160.6 million acres more than the second place president, President Carter, whose 15 monuments in the state of Alaska total just over 54 million acres. How do we get such a wide gap in acreage between George W. Bush and the remaining presidents? The majority of Bush's

like forests and wildlife refuges, primarily come from lands already owned by the government and withdrawn from sale or private development. Additionally, like wildlife refuges, national monuments can also be formed from lands privately held by individuals or others, that are donated or "...relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts on behalf of the Government of the United States." Antiquities Act of 1906, 16 U.S.C. §§ 431-433. See also, Carol Hardy Vincent and Kristina Alexander, *National Monuments and the Antiquities Act*, (Washington, D.C.: Congressional Research Service, 2014): 6-7.

²⁰² It could be argued that more conservative presidents would be less likely to use the executive power granted in the Antiquities Act.

²⁰³ Table V: Presidential National Monuments.

acreage comes from four *marine* national monuments meaning that his monument designations were not limited by people living nearby, existing state or local boundaries, or any other constraints placed upon the more typical dry land withdrawals seen in the majority of national monuments.²⁰⁴ Also, Bush's marine monuments differ geographically from his predecessors' as they are not in areas near or on the continental United States. Bush designated his marine monuments in Hawaii, American Samoa, the Northern Mariana Islands, and Guam.²⁰⁵ Hence it seems necessary to compare the rest of the presidents' acreage separately from these four marine monuments, including President Bush's two dry-land monuments, in order to more accurately compare acreage amounts.

After removing President W. Bush's marine monuments from consideration, a slightly different pattern of presidential use of the Antiquities Act, in terms of acreage, forms. President Carter moves into first place with his 54 million acres in the state of Alaska. Carter's decision to set aside these monuments occurred due to a political stalemate in Congress over a timeline to decide the appropriate designation of Alaskan lands once it became the nation's fiftieth state. The majority of these lands received new designations from Congress a short two years later.²⁰⁶ After Carter, two modern Democratic presidents, Obama and Clinton, fall into second and third place, with Obama setting aside over 7.1 million acres and Clinton over 5.0 million acres. Coming in at a solid fourth place is Republican president and first time-implementer of the act, Theodore Roosevelt, with over 1.5 million acres. Of the remaining presidents on the list, Presidents

²⁰⁴ President Bush's marine monuments followed the precedent established by the Clinton administration's Virgin Islands Coral Reef National Monument, which was the first fully submerged underwater national monument. For a more details regarding underwater monuments, see the "Presidential National Monuments: Overall Patterns" section below.

²⁰⁵ Table V: Presidential National Monuments.

²⁰⁶ See discussion of the Alaska lands designation process below in the Congressional Responses section.

Wilson, Coolidge, Hoover, and F. Roosevelt each added over 1 million acres to the national monument system during their terms in office. Presidents Johnson and Taft each set aside over 32,000 acres, and the remaining five presidents varied in amounts all under 10,000 acres, including George W. Bush when including only his dry-land monuments.²⁰⁷

Presidential National Monuments: Overall Patterns

Presidents created the majority of the monuments in existence today during the early part of the 20th century, between the two Roosevelt administrations. Eighty-two different monuments came into existence during the first 37 years of the Antiquities Act's history. Presidents since 1943 established an additional 70 monuments. The slight discrepancy between these two periods exists primarily due to the fact that presidents between Truman and Ford either established very few monuments or none at all. In fact, if President Carter had not declared his 15 proclamations in Alaska due to Congressional inaction, there would only be six presidential monument designations between the years of 1943 and 1996. The pattern of presidential monument creation shows a steady formation during the first few decades, tapering off greatly during the following three decades which featured the dramatic single blip of Carter's action, followed by two empty decades with no designations, only to see a strong increase during the nation's three most recent presidencies.

The overall pattern of presidential creation of national monuments can thus be broken into three distinct periods: 1906-1943, 1944-1995, and 1996-present. The first set of presidents to use the power did so confidently and enthusiastically. They each created at least 8 monuments, with an overall average of 11.7 monuments over the seven presidents. The second time period however, paints a very different picture. From 1944-

²⁰⁷ Table V: Presidential National Monuments.

1995 five presidents created 21 monuments, yet 15 of those 21 monuments came on a single day from President Carter. As described in detail in the next section of the chapter, Carter created these monuments essentially as temporary withdrawals until Congress could enact legislation to determine the preserved acreage in the state of Alaska. Carter argued that his actions resulted only from Congressional stalemate, and that he anticipated the lands would later be re-designated by Congress. In 1980, Congress did just that and the acreage withdrawn by Carter became a mix of national parks, wildlife refuges, scenic rivers, and wilderness areas. So in terms of creating monuments that presidents intended to remain reservations permanently, only 5 came into existence between 1944 and 1995. Why such a small number? Three developments help to explain the downturn: a controversial designation, government reorganization, and a decrease in available land.

First, FDR established a controversial national monument in Jackson Hole, Wyoming in 1943.²⁰⁸ While the mountains of the Grand Teton range became a national park in 1929, the lands surrounding the mountains remained unprotected and open for private purchase. The Department of the Interior petitioned to have the land included in the park many times, but all attempts in Congress failed. As part of their efforts, Interior convinced John Rockefeller to purchase the vulnerable lands so that he could donate them to the government as an addition to the national park. Yet when word of Rockefeller's plans reached Wyoming and Congress, outrage ensued and any attempt to add the land to the park appeared futile. Frustrated with the situation, Rockefeller claimed in 1942 that he was ready to be rid of the lands to FDR's Secretary of the

²⁰⁸ For a more detailed description of the Jackson Hole National Monument controversy, see the "Congressional Responses" section below.

Interior, Harold Ickes. Worried that they might lose the chance to preserve the land around the Tetons, Ickes recommended that FDR take the unpopular route and declare the lands as a national monument. FDR took Ickes' advice and made the proclamation, using the donated land from Rockefeller.²⁰⁹ Feeling as though the president had circumvented the democratic process and gone against the will of the Wyoming people, Congress members made numerous attempts to undo FDR's actions and lessen the power of the presidency under the Antiquities Act. It took many years for the controversy to settle itself, and made the Antiquities Act a non-starter for the remaining years of the Roosevelt administration, and well into the Truman administration.²¹⁰ Thus the Jackson Hole incident tainted the Antiquities Act for quite some time, contributing to the overall downturn in its use for many years to come.

Second, during his years in office, FDR instituted a number of restructurings throughout the agencies of the national government. Many agencies reorganized, received new responsibilities, and recombined to make new bureaus altogether. As a result of one of these reorganizations, the National Park Service acquired all of the national monuments, making the agency the sole manager for the monument category. As examined earlier in this chapter, the Antiquities Act kept any withdrawn lands under the authority of the current federal agency overseeing the protected acreage, thus dividing the responsibility of their maintenance amongst multiple departments. With the change in 1933, the National Park Service needed to determine a way to bring all of the

²⁰⁹ Even though Rockefeller originally purchased the lands intending to donate them as an addition to the national park, he was able to do the same for the national monument, per the provision in the Antiquities Act that allows the Secretary of Interior to accept "relinquishments" of land to the government for monument purposes.

²¹⁰ William C. Everhart, *The National Park Service*, (Boulder, CO: Westview Press, 1983):81-83, and Robert W. Righter "National Monuments to National Parks: The Use of the Antiquities Act of 1906," *The Western Historical Quarterly*, 20, 3 (Aug. 1989): 294-296, and Mark Squillace, "The Monumental Legacy of the Antiquities Act of 1906," *Georgia Law Review*, 37 (2003): 495, fn. 143, 497-498, 500-501.

monuments under its guise in a way that made sense with the agency's other land preserves. Thus with the end of the FDR administration, the Department of the Interior, through the National Park Service, focused its attentions on retaining and maintaining the current list of national monuments, rather than seeking to add new ones.²¹¹ This administrative shift resulted in less pressure on the presidency to make new designations from the executive branch.

Third and finally, open public land became less and less available for preservation. Many of the obvious "crown jewels" of the American landscape had already been set aside by 1943. Land preservation, including through the establishment of national monuments, consequently came more from Congress during these years as the immediate threats of development to open lands declined.²¹² Proponents of land preservation understandably sought action through Congress more often, and only turned to the Antiquities Act when it appeared to be the last resort available. As a result, the presidential authority to create monuments shifted away from a proactive exercise to a reactive one.

Had the pattern seen between 1944 and 1995 continued, the story of presidential power through the Antiquities Act would essentially have ended there. A return to Congressional forms of preservation, mixed in with a few last resort actions by the presidency here and there, could easily have been the pattern through until present day. Yet instead the later 20th and early 21st centuries brought a resurgence of presidential implementation of the Antiquities Act.

²¹¹ Ise, 352-353, Miller 76, Rothman *Preserving Different Pasts* 187-190, 213, and Runte 194-195.

²¹² Rothman *Preserving Different Pasts* 212-214.

Thus finally, the third time period, 1996-present, harkens back to the more productive first time period. Shedding the limited use of the Antiquities Act seen by their recent predecessors, Presidents Clinton, W. Bush, and Obama turned back the clock and reinvigorated the authority that had remained largely ignored for almost 50 years. The three presidents proclaimed 49 monuments between them, averaging just over 16 monuments per presidency. However, a clear discrepancy is evident between the Democratic and Republican holders of the office, with Clinton and Obama establishing 43 of the 49 monuments. Yet once again it is important to note that W. Bush's monuments outdo all others in terms of acreage due to his inclusion of four marine monuments which are truly monumental in scale.²¹³

Again this change in the pattern of presidential establishment begs the question, why? Presidential creation of national monuments during the past 20 years mainly derives from three factors: re-election, precedent, and legacy. The first monument created by a president since Jimmy Carter in 1978 came via the stroke of President Bill Clinton's pen in 1996. Up for re-election, Clinton struggled to gain support of environmentalist groups due to his weak performance in this policy arena. Clinton's campaign pollster, Dick Morris, also discovered that "soccer moms" would respond well to Clinton taking strong executive action in the face of a difficult Congress. As a result, Clinton searched for an action he could take as president to reinvigorate the support of

²¹³ Table V: Presidential National Monuments.

It should also be noted that President Obama has increased the acreage of marine monuments while in office, but are not attributed in these calculations since they represent expansions of past monuments and not the creation of new monuments.

these two crucial demographic groups so that he might gain their support in the election.²¹⁴

Clinton's Secretary of the Interior, Bruce Babbitt, suggested that Clinton consider using the Antiquities Act to declare a portion of land in Utah as a national monument. The area Babbitt recommended for the monument had been under consideration for preservation since the FDR administration, and in 1996 faced possible purchase and development by a private coal company. Environmentalists brought this particular development to the attention of Clinton and sought action from the administration to prevent the acquisition of land for coal mining. Additionally, declaring the land a national monument could rebrand Clinton as a strong leader and conservationist, yet not cost much politically as the Republican state of Utah clearly would not go in his favor during the election. Consequently, Clinton declared the Grand Staircase-Escalante National Monument, consisting of 1.7 million acres, on September 18, 1996 from Babbitt's home state of Arizona. By making the announcement in Arizona, Clinton's campaign hoped to avoid any potential protestors at the announcement ceremony which they anticipated would attend in the state of Utah.²¹⁵

Clinton's political tactics proved broadly successful, save for the outrage from Utah citizens and members of Congress. Consequently, Clinton's team refrained from declaring any new monuments, as Secretary Babbitt, aware that the Antiquities Act could suffer or be rescinded if they did not tread carefully, did not want to risk harm to the act. Having also kept the lands in the Grand Staircase monument under the management of

²¹⁴ Belco and Rottinghaus 608-609, Heidi M. Biasi, "The Antiquities Act of 1906 and Presidential Proclamations: A Retrospective and Prospective Analysis of President William J. Clinton's Quest to 'Win the West,'" *Buffalo Environmental Law Journal*. 189, 9 (2002): 208-211, and Bruce Babbitt (former Secretary of the Interior, 1993-2001), in discussion with the author, Bethesda, MD, January 7, 2016.

²¹⁵ Belco and Rottinghaus 608-609, Biasi 208-211, and Bruce Babbitt (former Secretary of the Interior, 1993-2001), in discussion with the author, Bethesda, MD, January 7, 2016.

the Bureau of Land Management (BLM), rather than with the traditional National Park Service, Babbitt wished to wait and see if BLM could develop into a good manager of the land and a conservation-focused agency.²¹⁶ So as discontent over the Grand Staircase monument settled and the BLM acquired its conservationist legs, Babbitt began to encourage the use of the Antiquities Act once again. The story goes that Babbitt, whenever he would see the president, presented Clinton with a note card that listed the 18 monuments formed by Theodore Roosevelt on one side and the number 19 on the other; as inspiration for Clinton to surpass the great conservationist president in the national monument category. With persistence, and Clinton looking to his own legacy, the president established 18 new monuments between January 1, 2000 and January 19, 2001.²¹⁷

In addition to bringing the Antiquities Act back to life after so many years, the Clinton administration expanded the power of the presidency under the Act through the designation of one particular monument: Virgin Islands Coral Reef National Monument. Prior to its formation, presidents for the most part withdrew “dry” land, that is, land above ocean levels. While some national monuments preserving specific islands, such as Buck Island under President Kennedy, and Admiralty Island under President Carter, included adjacent submerged lands and reefs, these monuments did not primarily focus upon the preservation of underwater lands and ecosystems. With the declaration of the Virgin Islands Coral Reef National Monument however, this changed. All 12,708 acres

²¹⁶ The Bureau of Land Management, up until the Clinton administration, had not followed a conservationist mission.

²¹⁷ Biasi 212, McManamon 341-342, Bruce Babbitt (former Secretary of the Interior, 1993-2001), in discussion with the author, Bethesda, MD, January 7, 2016, and Mark Squillace, “The Antiquities Act and the Exercise of Presidential Power, The Clinton Monuments,” in *The Antiquities Act A Century of American Archaeology, Historic Preservation, and Nature Conservation*, Eds. David Harmon, Francis P. McManamon, and Dwight T. Pitcaithley, (Tuscon, AZ: University of Arizona Press, 2006): 108-110.

of land within the monument's boundaries are entirely under ocean water.²¹⁸ Therefore by forming this monument, Clinton broadened the understanding of what could be preserved as a monument by extending beyond the country's coastal boundaries, and provided for the possibility of immense monuments due to the vast nature of oceanic lands. Thus Clinton not only reinvigorated but expanded the presidential authority of the Antiquities Act during his second term in office. Whether those that came after him would follow suit became the next question.

The answer, perhaps surprisingly, is yes, Clinton's successors followed suit. During the 2000 election, George W. Bush stated that he intended to review Clinton's national monuments should he become president. The statement by Bush made it seem that he would not be as willing to use the Antiquities Act and many expected him to try to reverse or lessen previous actions taken to preserve federal lands. Yet he did not. Once in office, the administration chose to first, leave the Clinton monuments untouched, and second, use the Antiquities Act in an expansionist manner.²¹⁹

First, once in office Bush's administration quickly realized the popularity of Clinton's monuments and consequently recognized that removing them did not make sense politically. Thus Bush's campaign threats to reverse Clinton's designations never materialized. Second, W. Bush built upon the precedent of underwater monuments initiated by President Clinton. While Clinton's Virgin Islands monument represented the first wholly underwater monument focusing upon the preservation of marine ecosystems, W. Bush took this expansive interpretation of the executive power to a whole new level

²¹⁸ Proclamation No. 4611 (December 1, 1978), Proclamation No. 3443 (December 28, 1961), and Proclamation No. 7399 (January 17, 2001).

²¹⁹ Christine A. Klein, "Preserving Monumental Landscapes under the Antiquities Act," *Cornell Law Review*, 87 (2001): 1386-1387 and James R. Rasband, "The Future of the Antiquities Act," *Journal of Land, Resources, and Environmental Law*, 21 (2001): 624-625.

in terms of acreage protected. On June 15, 2006 W. Bush created the Northwestern Hawaiian Islands National Marine Monument that included *over 89 million acres* of reserved land under the ocean's waters.²²⁰ Why he did so seems to be a result of a number of influencing factors including a personal viewing of a documentary on the plight of aquatic species in the region at the White House, and an earlier proposal for a national monument in the area by the Department of the Interior during the Clinton administration.²²¹

The important aspect of Northwestern Hawaiian Islands declaration however is the fact that W. Bush, who did not have a strong environmentalist stance, chose to not only use the Antiquities Act, but to create the largest monument ever of over 89 million acres. Bush substantiated this expansive interpretation of the Antiquities Act with the formation of three additional marine monuments totaling more than 125 million additional acres.²²² Thus a *modern* conservative Republican president enthusiastically embraced the power of the presidency under the Antiquities Act. It can safely be assumed that Bush too acted with both precedent and legacy in mind, as his last three marine monuments came just days before he left office.²²³

Finally, President Obama recently expanded the power of the presidency under the Antiquities Act by first, blasting through Clinton's record for the most monuments ever created by a single president and second, expanding the nation's marine monuments.

²²⁰ All of these underwater lands were "...owned or controlled by the Government of the United States" at the time of monument designation. Proclamation No. 8031, (June 26, 2006).

²²¹ Bruce Babbitt (former Secretary of the Interior, 1993-2001), in discussion with the author, Bethesda, MD, January 7, 2016, Proclamation No. 8031, (June 26, 2006), Rasband, 624-625, Alison Rieser, "The Unexpected Ark: The Blue Legacy of the Clinton and Bush Presidencies, 1993 to 2006," *Journal of Land Use and Environmental Law*, 28,1 (Fall 2012):6, 8-10.

²²² Bush's Northwestern Hawaiian Islands proclamation also introduced the term "marine national monument" for the first time, highlighting the unique nature of these designations.

²²³ See Table V: Presidential National Monuments.

First, on February 12, 2016, Obama declared three national monuments within the state of California, Mojave Trails, Sand to Snow, and Castle Mountain, to surpass Clinton's record of 19 monuments in one presidency. Since February however, Obama further cemented his national monument legacy by forming an additional four monuments in April, June, August, and September bringing his total to 24 new monuments during his two terms in office. His most recent designation, on September 15, 2016, established the Northeast Canyons and Seamounts Marine National Monument. Comprised of over 3.1 million acres, it is the first marine monument in Atlantic Ocean waters. Considering these actions, and the fact that President Obama at the time of this writing still has a number of months in office, he may set an even higher record for the number of national monuments ever created by a single president.²²⁴ Only time will tell if he will continue to make history.

Second, Obama also followed the path of his immediate predecessor, President George W. Bush, by extending the Pacific Remote Islands and Papahānaumokuākea Marine National Monuments. President Obama's expansion of the monument on September 15, 2014 included approximately 197,322,240 acres, making it the largest marine protected area in the world at the time. In President Obama's more recent proclamation of August 26, 2016, he enlarged the Papahānaumokuākea Marine National Monument by an astounding 283,379,840 acres, fashioning the largest protected area on the planet.²²⁵ While these are not new monuments, and thus are not included in the table of presidential monuments presented in this research, these expansions and his

²²⁴ See Table V: Presidential National Monuments.

²²⁵ Proclamation No. 9173 (September 25, 2014), Proclamation No. 8031 (August 26, 2016), NOAA "The Pacific Remote Islands Marine National Monument," Available: http://www.fpir.noaa.gov/MNM/mnm_prias.html and "President Announces Expansion of Papahānaumokuākea," Papahānaumokuākea Marine National Monument, Available: http://www.papahānaumokuākea.gov/news/expansion_announcement.html.

designation of the Northeast Canyons and Seamounts monument prove him an enthusiastic supporter of Clinton and W. Bush's expansive interpretation of submerged land monuments. This willingness combined with his precedent-setting number of declarations solidifies the prominence of the Antiquities Act in today's presidency.

Thus the overall pattern of presidential monument establishment is book-ended, with the first and third sections seeing the most use of the Antiquities Act, a rather long lull of limited applications in between, and the future still yet unknown. Each monument designation stemmed from the specific circumstances surrounding it, making it near to impossible to attribute the continued presidential application of the Antiquities Act to any one condition. Yet within the general patterns identified here, sustained use of the authority derives from three general sources: a personal or political interest in conservation, administrative support and encouragement from executive agencies, and presidential legacy. While these impetuses provided the basis for action, in the end, the president made, and still makes, the final decision in all monument declarations, highlighting the distinctive nature of the power granted by the Antiquities Act.

Congressional Responses: Limitations to Presidential Authority and Monuments Established

Congressional Limitations, Real and Unrealized, to Executive Power Use

Due to the discretionary authority granted to the president within the Antiquities Act, and the enthusiastic use of the act by presidents, Congressional challenges to presidential implementation have occurred many times throughout the act's 110 years. Three particular instances represent the most important reactions to the use of the Antiquities Act, two of which came about due to specific national monument designations, and one as a part of a larger discussion of public lands in America. It

should be noted that many smaller instances of rebuttal originated from various interested constituencies, many of which resulted in lawsuits testing the presidential authority to create monuments.²²⁶ The three instances presented here represent the most critical *Congressional* responses to presidential power, and the limitations (if any) placed upon said executive authority due to them.

The first major case of Congressional response to presidential action occurred after a long attempt to withdraw lands around the Jackson Hole area of Wyoming. In 1929, Congress established Grand Teton National Park, which basically only protected the mountain range and very little of the surrounding area. Consequently, much of the land quite close to the Grand Tetons, especially in northern Jackson Hole, remained open for private acquisition and development. Prior even to the national park establishment, the National Park Service began to work with John D. Rockefeller, Jr. on procurement of the lands surrounding the mountain range to eventually be included in a national park. In 1926, Rockefeller and his family took a tour of the Grand Tetons, with the then superintendent of Yellowstone National Park, Horace Albright. During the tour, Albright took Rockefeller to a particularly spectacular view of the Grand Tetons, and made him aware of the desire of the NPS to create a national park of the mountains and surrounding areas. He showed Rockefeller that without governmental protection, the region, and the beautiful scenery, could be destroyed by private development.²²⁷

²²⁶ No lawsuit has ever succeeded in lessening the overall power of the presidency, as in most cases the decisions endorsed the authority granted to the president within the Antiquities Act. The Congressional responses discussed here therefore mark the only limitations placed upon the presidency's power within the Antiquities Act. For one of the most important examples of local, vested interests challenging the authority of the president, see the discussion of the Grand Canyon National Monument designation above.

²²⁷ Everhart 81-82, Robert W. Righter, *Crucible for Conservation: The Creation of Grand Teton National Park*, (Boulder, CO: Colorado Associated University Press): 45-47, and Squillace 495, fn. 143.

Based on the experiences of his encounter in Yellowstone, Rockefeller decided to take action on behalf of the government and began to purchase acres of private lands surrounding the mountains. With the creation of the national park in 1929, Rockefeller and the NPS hoped to incorporate the Rockefeller land as a donation into the park through an official extension. However, once the local community discovered this plan, they encouraged their Congressional members to stand firm in opposition to it. Many in Wyoming viewed the secret NPS-Rockefeller cooperation as manipulative and shady; incurring more outrage than might have been had the deal been made public earlier. The senators of Wyoming felt especially betrayed by the actions of Rockefeller and the NPS, believing that they should have at least been made aware of the plan.²²⁸ Hence any and all attempts to expand the national park during the 1930s failed due to strong Congressional opposition.

As a result of the inability to include the lands within Grand Teton National Park, Rockefeller remained the owner of his Jackson Hole acreage for far longer than planned. By 1942, Rockefeller had lost his patience and wished to know what the government intended to do to resolve the situation. He wrote the Secretary of the Interior under Franklin Roosevelt, Harold Ickes, that he was considering selling the lands around the Grand Tetons due to the failure of the original plan. According to Rockefeller, “I have definitely reached the conclusion, although most reluctantly, that I should make permanent disposition of this property before another year has passed.” Upon receipt of the letter, Ickes informed Roosevelt of the impending Rockefeller sale and suggested the possibility of designating the donated lands a national monument. With the suggestion

²²⁸ Everhart 82-83, *Righter Crucible for Conservation* 66-67, Righter “National Monuments to National Parks” 294, and Squillace 495, fn. 143.

however, Ickes reminded Roosevelt that taking such an action would most likely arouse Congressional anger and opposition. Undeterred by the potential consequences, Roosevelt took Ickes' recommendation and established Jackson Hole National monument via presidential proclamation on March 15, 1943.²²⁹

Unsurprisingly, Roosevelt's order produced outrage and uproar from the state of Wyoming. Feeling especially affronted, the senators and representatives from Wyoming viewed the act as an executive power grab, circumventing the needs and wants of their local constituency. Determined to reverse the outcome of Roosevelt's designation, Congress members attacked Roosevelt not for neglecting local considerations, but rather for what they argued was a misuse of executive power. As other disputes over the Antiquities Act focused more on the debate between local and federal levels of government, the Congress members hoped to get more traction by casting the debate in terms of executive versus legislative power. Thus they argued that Roosevelt's action went against the "intention" of the Antiquities Act, using it in this case only as a method to circumvent the Congressional rejection of the Grand Teton National Park extension desired by the NPS.²³⁰

Senator Barrett of Wyoming presented a bill to abolish the monument and remove the power of withdrawal for the president, and held a number of hearings on the bill with local residents and representatives voicing their dissent towards the president's action. The House and Senate both passed the bill, but ultimately failed to pass with President Roosevelt's veto. For the next seven years, the monument remained intact, but

²²⁹ Everhart 83, Proclamation No. 2578 (March 15, 1943), *Righter Crucible for Conservation* 107, 109-110, *Righter "National Monuments to National Parks"* 294-295, and Squillace 495-498.

²³⁰ Clarke 77-78, Everhart 83, *Righter Crucible for Conservation* 110-114, and *Righter "National Monuments to National Parks"* 295-296.

continually lacked funding as Senator Barrett ensured it received no appropriations within the Department of the Interior's budget. With the passage of time and the cooling of tempers however, a compromise over the national monument became conceivable. So in 1950, the two sides struck a bargain which provided something for both of them. The lands included in the Jackson Hole National Monument became, finally, a part of the Grand Teton National Park; exactly what had been desired from the beginning by the NPS. However, in exchange, the president could no longer create national monuments within the state of Wyoming without the permission of Congress.²³¹

Thus the Jackson Hole national monument is a case of strong Congressional reaction to the use of the Antiquities Act by the president. It is important to note that a law to abolish the monument did pass both chambers of Congress, a rarity in the history of the act. It took further presidential action, a pocket veto by Roosevelt, to prevent the bill from becoming law. Yet, in the end, the lands remained preserved and eventually became a part of the national park; the intention of the executive, writ large, all along. The only compromise was the limitation upon the presidency to no longer create a national monument in Wyoming without the approval of Congress. Hence despite the fact that the Jackson Hole case represented one of the strongest cases against executive power, it merely limited the presidency to acting only with Congressional permission, and only in the state of Wyoming. And the lands that caused the limitation remain in preserved status, even "upgraded" preserved status as a national park, to this day.

The second major Congressional response related to the Antiquities Act is within the pages of the Federal Land Policy and Management Act of 1976 (FLPMA). As

²³¹ Clarke 77-78, Everhart 83-84, Righter *Crucible for Conservation* 117-119, 123-125, 137-141, Righter "National Monuments to National Parks" 295-296, and Squillace 496, 498, see especially fn. 146.

discussed in the previous two chapters, the FLPMA considered and reviewed every power used by the executive to maintain and withdraw public lands. All three of the powers used by the presidency within public lands covered in the three chapters thus far found their respective places within the FLPMA. The ability to withdraw public land through the Forest Reserve Act of 1891 met its final end within the 1976 law. The presidential power to create national wildlife refuges, on the other hand, did not.²³² Thus if one is keeping track of the presidential powers covered thus far and remaining in effect after the passage of the FLPMA, the score is tied 1-1. Considering the fact that the Antiquities Act passed due to what appears as a limited conception of the presidential authority found within it, its removal within the FLPMA seems understandable, if not expected. Presidents over time ambitiously employed the authority, not only in terms of the number of monuments created, but also in the expansive implementation of the law. Additionally, Congress revoked the other Congressionally-delegated power of creating forest reserves in the FLPMA. Would they do the same with the authority to create national monuments by executive unilateral action?

Surprisingly, the answer is no. The Antiquities Act remained off the list of repealed withdrawal laws. In fact, like the national wildlife refuges, the FLPMA actually ensured the continued protection of current national monuments as it stated that the Secretary of the Interior was *not* able to “...modify or revoke any withdrawal creating national monuments under the Act of June 8, 1906.” Instead of limiting or challenging the long-used and sometimes despised presidential authority within the Antiquities Act, at the moment when its removal could have occurred quite easily as one of many authorities rather than a law to overturn it independently, the power to create national monuments by

²³² Federal Land Policy and Management Act of 1976, 43 U.S.C. 35 (1976).

the presidency remained untouched.²³³ Congress may have maintained the Antiquities Act because presidents had not employed it much since Franklin Roosevelt's controversial designation of Jackson Hole. In 1976, the Antiquities Act may have appeared as nothing but an old relic that would unlikely be used in any serious way again. If Congress had known that just two short years later a president would use the Antiquities Act to create the largest monuments to date, the FLPMA may have removed the presidential power after all.

The third and final major Congressional response to the presidential power within the Antiquities Act occurred throughout the 1970s, and culminated in 1980. The debate at the heart of the response, however, dated back to 1959. In this year, Alaska officially joined the United States of America. As expected, a debate ensued over how to allocate the lands within the vast Alaskan territory. Those who were from the area, moved into the area since its statehood, and seeking to develop the new territory, all held valid and varied interest in the new state's land. Additionally, the government needed to decide what lands would remain public and what lands should be sold to private hands. Thus two sides to the debate formed, one on the side of preservation, and the other on the side of development. Modern America's newest debate in Alaska thus harkened back to the same question posed in the 19th century with the development of industry: how much land do we preserve, and how much do we let go? Support for the preservation of public lands came mainly from outside of the state, while support for private development came from residents, bringing questions of states' rights and federal intervention to the fore.²³⁴

²³³Federal Land Policy and Management Act of 1976, 43 U.S.C. 35 (1976) and Squillace 568-569.

²³⁴ Jimmy Carter, *White House Diary*, (New York: Farrar, Straus, and Giroux, 2010):253 and Runte 216-219.

In an attempt to determine the best option for the Alaskan lands, Congress passed the Alaska Native Claims Settlement Act (ANCSA) on December 18, 1971. The law provided Alaskan natives with the ability to choose 44 million acres of the state for their own development. Section 17 (d)(2) of the law addressed the public lands side of the debate, granting the Secretary of the Interior the power to withdraw up to 80 million acres to be considered for land preservation status as national parks, national wildlife refuges, national wild and scenic rivers, and national forests. In order for these lands to be considered for reservation status, the Secretary's recommendations had to be submitted to Congress within two years of the ANCSA's passage. Therefore on December 3, 1973, the Department of the Interior presented to Congress recommendations of 83.5 million acres of Alaskan land for preservation. By meeting the two year requirement, and formally submitting a proposal to Congress, the lands recommended for preservation became temporarily withdrawn from private sale or development. According to law, Congress then had five years to consider the Department's suggestions and take action upon them.²³⁵

In no particular hurry, Congress waited until 1977 to begin formal consideration of Interior's proposal. A special subcommittee on General Oversight and Alaska Lands formed under the leadership of Morris Udall of Arizona and John Seiberling of Ohio. The subcommittee considered a bill consisting of the Department of Interior's recommendation, and sent it to the floor for a vote. On May 19, 1978 the bill passed the

²³⁵ Alaska Native Claims Settlement Act of 1971, 43 U.S.C. 1601-1624 (1971), Cecil D. Andrus and John C. Freemuth, "President Carter's Coup: An Insider's View of the 1978 Alaska Monument Designations," in *The Antiquities Act A Century of American Archaeology, Historic Preservation, and Nature Conservation*, Eds. David Harmon, Francis P. McManamon, and Dwight T. Pitcaithley, (Tuscon, AZ: University of Arizona Press, 2006): 95-96, Squillace 502-503, and and Geore Willis, "*Do Things Right the First Time:*" *The National Park Service and the Alaska National Interest Lands Conservation Act of 1980*, (Washington, D.C.: U.S. Department of the Interior National Park Service, 1985): 92-93, 142-143, and 154-156.

House with a vote of 279 to 31, showing strong support for the measure. In the Senate, the Committee on Energy and Natural Resources considered the House bill, holding hearings and meetings to discuss its merits. During the process, strong opponents of the measure, led by the Alaska senators, slowed the bill's progression and weakened its preservationist intent. Through their work, the Senate committee presented a watered down proposal which they knew would never receive support from the House, the Carter administration, or conservationists. As a consequence of the Senate's delaying tactics during the last remaining session under the ANCSA's time limit, the temporarily withdrawn lands would soon lose their protected designation.²³⁶ Supporters of preservation found this unacceptable. Supporters of private development found this welcome.

Those who favored protection for the lands had one asset that proved immeasurable in the final allocation of the Alaskan lands: President Carter. Long interested in the debate over the public territory within Alaska, the administration made the inclusion of preserved lands a top priority. When Congress failed to pass the Department of the Interior's recommendations, the administration knew it needed to take action. As result, Carter dusted off the Antiquities Act, creating 17 new or expanded national monuments to protect nearly 55 million acres on December 1, 1978. In issuing the proclamations, President Carter stated that the monuments needed to be created due to Congress' failure to take appropriate action. Congress had essentially forced him to use the Antiquities Act by not completing the process laid out in the ANCSA.²³⁷

²³⁶ Andrus and Freemuth 96-97, Runte 220, Squillace 503-504, and Willis 196-209.

²³⁷ Andrus and Freemuth 98-101, Everhart 130-131, Runte 220-221, Squillace 504, and Willis 216-219, 224-225.

Carter's administration hoped that by declaring the monuments Congress would be forced to fully consider the recommendations made by Interior; essentially removing the chance for tactical delays by the opposition. Carter's strategy worked, at least eventually. The actions taken by the administration to preserve the proposed lands forced the opposition to reconsider their immovable stance and political tactics. If they wanted a say in the designation of Alaska's lands, then they needed to actually make a deal. Due to the pressure of Carter's actions, and the consequential inability to delay any longer, Congress finally passed an Alaskan lands law in 1980 during the final days of the Carter administration. Carter worked diligently with his staff to ensure the passage of an acceptable law before he turned over the reins to newly-elected President Reagan. Thus on December 2, 1980, two years and one day after Carter issued his monument proclamations; the president signed the Alaska National Interest Lands Conservation Act (ANILCA) into law.²³⁸

The ANILCA included provisions that protected more than 100 million acres of public land; 43.6 million in national parks, 53.7 million in wildlife refuges, and 25 new wild and scenic rivers covering about 1.2 million acres.²³⁹ Most of the lands covered by Carter's national monuments were reassigned to one of these three categories within the law. While conservationists long advocated for the reservation of more than 115 million acres, they considered the 100 million acres saved a good compromise considering the concern over the incoming administration's stance on reserved lands. Yet the 100 million acres came at a price. In exchange for the compromise, the presidency lost the ability to

²³⁸ Andrus and Freemuth 100-102, Carter 448-449, 481, Everhart 130, Squillace 503-504, Runte 221-222, and Willis 216-219, 224-225.

²³⁹ Of these lands, 56.7 million acres received wilderness status which provides the strictest level of protection available to public lands in America.

establish national monuments within the state of Alaska. Similar to the provision included in the 1950 Jackson Hole compromise, the ANILCA prevented the president from forming a national monument in Alaska without the consent of Congress. However, somewhat differently, this restriction only applied to withdrawals over 5,000 acres. It also allowed the president and the Secretary of the Interior to withdraw lands first, but required the withdrawal to be posted in the *Federal Register* and then approved through a joint resolution of Congress within one year of the withdrawal. Without a joint resolution of approval, any designation would be permanently removed.²⁴⁰

The Antiquities Act consequently lost some of its authority through the limitation placed upon monument creation in the state of Alaska. However, to the Carter administration, this cost seemed small in exchange for 100 million acres of protected lands. And since the president could still withdraw small parcels of land, only needing Congressional approval within a year after a withdrawal, and applied only within Alaska, the limitation to the Antiquities Act can only be described as limited itself.

These three instances of Congressional contest against the Antiquities Act resulted in the limitation of presidential power in two states. The Jackson Hole designation clearly disputed the authority to the farthest extent, with only a presidential veto keeping it in place. Yet the end story proves the same: Congress continually faced its own challenges when attempting to diminish the Antiquities Act. Needing support from a variety of members proved difficult as monument designations, and the potential for their continuance in the case of the FLPMA debate, only resonated with those representatives where monument designations occurred. Additionally, many members

²⁴⁰ Andrus and Freemuth 102, Alaska National Interest Lands Conservation Act of 1980, Pub. L. No. 96-487, 16 U.S.C. 51 (1980), Carter 490, Runte 222, Squillace 504, and Willis 237-241.

supported the act and national monuments since they tended to improve local areas and provide economic support for their constituents. As a result, the local impact of the monuments, like other federal land reserves, helped to protect the Antiquities Act from broad Congressional challenges.

Congressional National Monuments: Joining In and Filling In the Gaps

While the 59th Congress of 1906 provided the power to establish national monuments to the president, Congress also retained the power to declare them. The development of Congressionally-established monuments is barely mentioned in much of the literature on the Antiquities Act. This is surprising considering the fact that by taking these actions, Congress emulated the executive as the legislative body created its first monument only after multiple presidents exercised the authority many times. So Congressional monuments, and the pattern of their formation, are worth reviewing as Congress effectively endorsed the Antiquities Act each time it did so. These actions added to the strong precedent of Congressional acquiescence in regards to the use of the Antiquities Act by the presidency. By forming its own monuments, the institution not only validated the continuation of the act, and joined in on the practice, but also ensured (albeit unknowingly) that every presidential administration oversaw the creation of a new monument.

As seen in the previous chapter on national wildlife refuges, Congress used its constitutional authority within Article IV, Section 3, to create national monuments whenever it so desired. According to the Constitution, “the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States...” Thus Congress could create national

monuments as the pre-eminent institution of land disposal, even though the Antiquities Act itself provided the presidency the power to do so.²⁴¹ In the 109 year history of national monuments, Congress exercised this power 43 times during 24 different Congresses. The acreage added to the national monument system by Congress reaches over 969,000 acres.²⁴² The first national monument created by Congress came in 1927, by the 69th Congress and during the administration of Calvin Coolidge. Consequently, over two decades passed before Congress exercised the ability to establish national monuments after its delegation to the presidency in 1906. Setting aside 314 acres in North Carolina, Congress designated Kill Devil Hill National Monument, which paid tribute to the Wright Brothers' first successful airplane flight.²⁴³

After the formation of Kill Devil Hill, Congress established national monuments in a sporadic manner. No overall establishment pattern is evident, but two highlights are worth mentioning: first, the formation of the most Congressional monuments during one term of Congress, and second, the manner in which Congressional monuments compensated for gaps in presidential monument creation. First, the Congress responsible for the greatest number of monuments came in 1935-1936, during the tenure of the 79th Congress. During the first term of President Franklin Roosevelt, the 74th Congress designated 9 national monuments. Just why this particular Congress formed so many national monuments is neither obvious nor covered in the major works examining the Antiquities Act. Yet by looking both at what the monuments preserved and the historical

²⁴¹ Based upon a review of the 43 statutes creating the monuments, Congress provided the president or the Secretary of the Interior the power to acquire the lands needed for each monument. Congress allowed for the withdrawal of already existing federal lands, the purchase of private lands, and the acceptance of donated private lands.

²⁴² See Table VI: Congressional National Monuments.

²⁴³ "An Act Providing for the Erection of a Monument on Kill Devil Hill, at Kitty Hawk, North Carolina, Commemorative of the First Successful Human Attempt in History at Power-Driven Airplane Flight," 44 Stat. 1264 (1927), and U.S. Constitution Article 4, Section 3.

context of their creation, three clues emerge. One, the 74th Congress' monuments commemorate a historic figure, place, or object. None of the proclamations justify the preservation of land in terms of "scientific interest," as seen many times throughout the pattern of presidential designation. Two, all of the monuments are smaller in size, ranging from the smallest at a single acre, to the largest of 160 acres. These proclamations therefore follow a much narrower interpretation of national monument designation, and created less concern in terms of federal overreach.²⁴⁴

Three, and most significantly, the 74th Congress convened during 1935-1936, years five and six of the nation's Great Depression.²⁴⁵ As the country struggled to survive its worst economic downturn, a desire to "look back" to better times prompted interest in the protection of American historical locations. The Historic Sites Act of 1935 declared it national policy to care for and protect historic structures and antiquities of value to the development of America's history. This act essentially called for additional federal level action like that first conceived within the Antiquities Act of 1906. Additionally, the Roosevelt administration's New Deal provided funding for the creation and renovation of American historical monuments at unprecedented levels. The National Park Service received millions of dollars through various New Deal programs, furthering development of all reservation types and transforming its holdings into a truly national system of preservation.²⁴⁶

Second, as related above, four presidents did not use the power to create monuments while in office: Richard Nixon, Gerald Ford, Ronald Reagan, and George

²⁴⁴ See Table VI: Congressional National Monuments.

²⁴⁵ See Table VI: Congressional National Monuments.

²⁴⁶ Historic Sites, Buildings, and Antiquities Act of 1935, 16 U.S.C. 461-467 (1935), Marilyn Phelan, "A Synopsis of the Laws Protecting our Cultural Heritage," *New England Law Review*. 28 (Fall 1993): 68-69, Rothman Preserving Different Pasts xv-xvi, 159 and Nick Taylor, *American-Made The Enduring Legacy of the WPA: When FDR Put the Nation to Work*, (New York, Bantam Books, 2008):214-215.

H.W. Bush. Yet during each of these presidencies, Congress stepped in and designated at least one monument. Nixon oversaw the formation of 3 monuments, Ford 2, Reagan 4, and H.W. Bush one monument.²⁴⁷ So despite these presidents' unwillingness, or neglect, to utilize the power of the presidency to form national monuments, they all signed one monument into law thanks to Congressional initiative. Therefore no presidency ended without at least one new addition to the national monument list since the Antiquities Act passed in 1906.

National Monuments and Congressional Acceptance: Delegation, Allowance, Limitation, and Emulation

The national monuments represent a strongly challenged, yet ever-sturdy example of presidential authority in public land preservation. The national monuments are the youngest of the three types of reservation presented thus far in this study of presidential power. Forest reserves originated in 1891, the first national wildlife refuge formed in 1903, and the first national monument originated with the passage of the Antiquities Act in 1906. As the successor to these two earlier power grants, the presidential authority to create national monuments mirrored aspects of each. As a result, the national monuments encompass all four categories of Congressional acceptance: delegation, allowance, limitation, and emulation.

Chart III: National Monuments and Congressional Acceptance

	Delegation	Allowance	Emulation	Limitation
National Forests	✓	✓		✓
National Wildlife Refuges	✓	✓	✓	
National Monuments	✓	✓	✓	✓
National Parks	(✓)	(✓)	(✓)	(✓)
National Wilderness Areas	(✓)	(✓)	(✓)	(✓)

✓ = presence of Congressional acceptance category

(✓) = echoed presence Congressional acceptance category

²⁴⁷ See Table VI: Congressional National Monuments.

The first category of Congressional acceptance seen in the development of America's national monuments is delegation. In 1906, Congress passed the Antiquities Act and granted the presidency the authority to determine the location, size, and ruins protected by the creation of a monument. The ambiguity of the law's language allowed for wide discretion on the president's part compared to the national wildlife refuges and forests. First, the delegated nature of the Antiquities Act provided a stronger power than that instigated by President Theodore Roosevelt in 1903. The formal dictation of power to the president provided the full force of law, a provision wildlife refuges did not share. Second, the Antiquities Act provided much more leeway to the president to determine what could or could not be withdrawn in comparison to the Forest Reserve Act of 1891. The justification for the withdrawals fell under the purview of the president proclaiming the monument, and all the president needed to do was provide enough evidence for a ruin or place to be considered of historic or scientific interest. Thus the specific delegation of power in the Antiquities Act increased the power of the presidency compared with the national wildlife refuges that had no delegation, and the forest reserves, which placed more restrictions upon the nature of the withdrawals.

The second and third categories of Congressional acceptance in the case of national monuments, allowance and limitation, go hand-in-hand and thus should be discussed together. The national monuments faced a number of challenges from Congress and in legal battles over the years. Since the law's language provided a fair amount of discretion to the presidency, presidents stretched the authority in multiple instances. Despite these acts, and some Congressional responses, Congress continually allowed most monument designations without any consequential push back. Even if

reactions occurred, most instances resulted in no official attempts to thwart presidential power. The local nature of monument designations aided in the protection of the Antiquities Act, as opposing members faced the difficulty of convincing their colleagues of the danger of the president's authority when many members did not feel the impact of the monuments themselves.

In the cases where presidential power faced actual challenges, only small limitations resulted. The act, and the presidential power within it, faced its most serious Congressional challenge in 1943 after Franklin Roosevelt established the Jackson Hole National Monument in Wyoming. Congress members from Wyoming managed to pass a bill essentially ending the presidential power to declare national monuments, and only a pocket veto from Roosevelt prevented the end of the Antiquities Act. With the failure of Congressional revocation, a 1950 compromise permitted the continued preservation of the Jackson Hole lands, but the presidency lost the ability to create national monuments within the state of Wyoming. In 1980, a similar compromise bill passed regarding Alaskan lands which had received national monument status under President Carter two years earlier. Carter made his proclamations in response to Congressional inaction over which lands should be protected in the newly formed state of Alaska. The 1980 law protected the lands proclaimed by Carter, just like the 1950 compromise measure, but again prevented the presidency from forming monuments within the affected state. These rather small limitations of presidential power are the most successful challenges made by Congress in terms of national monuments. Consequently, the presidential authority provided by the Antiquities Act remains almost fully intact nearly 110 years later.

Finally, the fourth category of Congressional acceptance exhibited in the case of national monuments is emulation. This category of Congressional acceptance is defined as actions taken by Congress that mirror or replicate presidential action. One might argue that since the Constitution granted Congress the power over land disposal that any action taken by the legislative body under these powers cannot be considered emulation. Yet Congress granted the presidency, not the Congress, the power to form national monuments in 1906. Presidents from 1906 onwards used the power enthusiastically; especially those that immediately followed passage of the act. For nearly 21 years, only presidents formed national monuments. In 1927, Congress joined in and established its first monument. So Congress first granted the power to the president rather than Congress, and then refrained from taking advantage of the power itself for nearly 20 years. Thus it emulated the power used by the presidency 62 occasions by that point in time. By declaring its own national monuments multiple times since 1927, Congress essentially endorsed the Antiquities Act time and again, recognizing the law's objectives as worthy of particular legislation in addition to presidential orders.

The Antiquities Act received holds the nickname of "old reliable authority" for good reason. The presidency received, in 1906, a power greater and more discretionary than any other in the realm of land preservation. It offered presidents the opportunity to preserve and protect certain tracts of land that held important objects and ruins of American historic and scientific interest. Time and again, presidents used the power to protect areas that are now an essential part of American culture and society. Congress tried at different points to limit or revoke this power, but challenges to the act proved unsuccessful, whether via law, court case, or public opinion. The Antiquities Act's

power for the presidency combined and built upon its two predecessors, the Forest Reserve Act of 1891 and the power to declare national wildlife refuges, in important ways. The act provided official delegation to the president, as seen in the FRA of 1891. The act allowed for broad presidential discretion, similar to the actions taken with national wildlife refuges. By combining these two aspects, the weaknesses of these other reservation powers disappeared. Thus the Antiquities Act offered the ultimate authority: that coming directly from Congress with little limitation placed upon it. Despite this immense power, the Antiquities Act still remains a strong source of power for the presidency and due its strong precedent, will most likely continue well into the future.

CHAPTER V: NATIONAL PARKS AND NATIONAL WILDERNESS AREAS

The previous chapters examine the role of public land policy in the development of presidential power through the office's ability to create national forests, national wildlife refuges, and national monuments. In two of these instances, Congress granted the presidency the power to form the reserves. In the other case, executive initiative claimed the authority and Congressional acceptance endorsed it. In the final two cases covered in this chapter, national parks and national wilderness areas, Congress neither afforded nor acquiesced to presidential establishment power. Instead, Congress maintained the authority for itself. Despite this important difference, the presidency and the executive branch played, and continue to play, a significant role in the development of these two public lands categories.

First, the presidency provided the foundation for many of the national parks and national wilderness areas by *originally reserving park and wilderness lands* through earlier national forest, national wildlife refuge, and national monument designations. National monuments served as the conduits between the national parks and the presidency; while forests, refuges, and monuments all served as channels between the presidency and national wilderness areas. The presidency initiated the protection of these lands, and consequently *provided Congress with the opportunity* to create national parks and national wilderness areas at a later date. Second, the presidency and the executive branch contributed to the development of parks and wilderness beyond the initial protection of the lands; a few national parks progressed due to the continued involvement of the presidency, and the idea of federally-protected wilderness stemmed from executive branch initiative. Accordingly, these two cases provide an additional level of support to the claim that public lands policy contributed to the development of presidential power.

The following chapter illustrates the indirect, yet critical role of the presidency in the creation of America's national parks and national wilderness areas. The first half focuses upon the national parks, with explanations of the parks' development, the system into which they evolved, and the part played by the presidency in each.²⁴⁸ The second half of the chapter examines national wilderness areas through analyses of the executive branch's role in developing the wilderness idea, the legislative development of the Wilderness Act, and the impact of the presidency on the overall system. The chapter's conclusion highlights the importance of the presidency in these two Congressionally-created public land systems, synthesizes the power dynamic between the presidency and Congress by discussing the relevance of the Congressional acceptance categories, and emphasizes how these cases add to the overall presidential power argument put forth in this research.

The National Parks

As mentioned above, national parks differ from the previous land reservation categories presented in this research as they can only be created by an act of Congress, rather than by executive power. The following examination of the national park system's development highlights three aspects that explain why the parks differ in this regard. One, the first national park's creation sheds light on the unique designation process of the earliest units. Two, the transition from random park designations to a full-fledged system creates the environment in which Congressional-only designations become the norm.

²⁴⁸ The term "national parks" refers to the 59 Congressionally established units that are specifically denoted as "national parks." The National Park Service often refers, in a casual sense, to many of the units under its jurisdiction as "parks" or "national parks." These units include all 413 units under NPS management. However, when used in this dissertation, the term "national parks" does not include all NPS units, only the 59 specific national park entities.

Three, a brief overview of the national park system as it exists today illuminates the impact of Congressional establishment on the nature of the system itself.

Parks before a System: Yellowstone Sets the Stage

The development of America's national parks explains how the power to establish parks fell under the purview of Congress, rather than the presidency. The first national parks, beginning with Yellowstone National Park in 1872, did not represent the founding of a planned "system" in any sense of the word. Each of the national park designations until the creation of the National Park Service in 1916 occurred rather haphazardly, often resulting from an expressed desire by a group of concerned citizens. As highlighted in the previous chapters, the first parks represented exceptions to the prevalent rule of the time in terms of public land: they were reserved, not sold. Nineteenth century American majority opinion, especially at the time of Yellowstone's designation in 1872 before any other national land reserves existed, viewed federally owned land as the country's greatest economic resource. Policy dictated that lands held by the government be sold for private development in order to generate revenue for the new national government and settle as much land as possible by individual Americans.²⁴⁹ Therefore, as the previous three chapters showed, the idea of preserving land, of removing it from possible sale and development, seemed far-fetched and foreign to most Americans of the time.

Despite the widely-held perception of land as an economic resource, calls for setting aside a large tract of land in California developed early in the decade of the 1870s. Beginning in the 1850s, explorers of the West discovered the fantastical lands that would become Yellowstone National Park. These explorers described what they saw, yet many

²⁴⁹ John Ise, *Our National Park Policy: A Critical History*, (Baltimore, MD: Johns Hopkins Press, 1961): 17-18 and William C. Everhart, *The National Park Service*, (Boulder, CO: Westview Press, 1983): 8-9.

people, especially those residing in the Eastern portion of the country, did not believe their stories. They continually insisted that the geological formations and natural objects depicted by these individuals had to be fictional in nature. We now know that such reports, like the one written and published in 1868 by a Brigadier General W.F. Reynolds, accurately illustrated the landscapes of the region. Yet despite sustained collaborating accounts, no one believed they could actually be true.²⁵⁰

In order to determine if previous explorers stated the truth, a group of prominent individuals from Montana formed an expedition to compile an official report of the area. Nineteen men, including the U.S. assessor for the state of Montana and a U.S. general, traveled to the region. The large number of participants allowed for full collaboration of their findings and including famous individuals amongst the group lent the planned report's findings a more authoritative air. In fact, the U.S. War Department believed these men to be so important that they provided a sergeant and four privates as escorts in case of attacks by Native American tribes. Two members of the group, Nathaniel Pitt Langford and Lt. Gustavus Doane, took careful notes throughout the trip, which formed the basis of the expedition's report that appeared widely in newspapers and magazines. Cornelius Hedges, a leading lawyer from Montana and member of the expedition, reportedly proposed the idea to make the area into a natural park, preserved for its beauty and unusual landscape. Langford quickly agreed. The support of two influential leaders

²⁵⁰ Everhart 7, Ise 14, Kathy S. Mason, *Natural Museums U.S. National Parks, 1872-1916*, (East Lansing, MI: Michigan University Press, 2004): 18, and Dyan Zaslowsky and T.H. Watkins, *These American Lands Parks, Wilderness, and the Public Lands*, (Washington, D.C.: Island Press, 1994): 15-16.

made the notion of a national park possible in a time when no such idea had previously been considered.²⁵¹

Due to the success of the 1870 expedition, and the newfound public awareness of the Yellowstone region, the United States government decided to test the expedition's findings. In 1871, the Geological and Geographical Survey of the Territories sent a group of scientists to the region to corroborate the private expedition's findings in a report of their own. The group included Professor F.V. Hayden, Chief Geologist for the country, as well as photographer William H. Jackson and painter Thomas Moran. Jackson and Moran joined the trip in order to provide visuals for the official government report. Hayden's account confirmed what had been seen and reported by the previous expeditions, making it impossible to doubt the region's wonders any longer. Sketches and paintings of the area created by Moran soon decorated the halls of the nation's capital. Hayden also joined the efforts of Langford and others to make the area a national park. Advocates lobbied members of Congress and encouraged public support through pleas in newspapers and magazines. In December 1871, senators from Montana and Kansas introduced a bill to make the Yellowstone region a national park. The bill quickly passed the House in February 1872, but faced some resistance from Democrats in the Senate. However, a majority in the Senate eventually voted in its favor, and on March 1, 1872, President Grant signed the bill into law. The act withdrew over 2 million acres of government-owned land from private sale and development.²⁵²

The creation of Yellowstone National Park provided the foundational practice for future national park establishment. The park's formation stemmed from the desire of a

²⁵¹ Everhart 8, Ise 14-15, Randall K. Wilson, *America's Public Lands From Yellowstone to Smokey Bear and Beyond*, (Lanham, MD: Rowman & Littlefield, 2014): 3, and Zaslowksy and Watkins 17.

²⁵² Everhart 8-9, Ise 17, Mason 17, 19, and Wilson 66-69.

group of people looking to protect an area of the country that had yet to be settled, let alone truly explored, until only a decade before its designation. Consequently, it is not surprising that the bill passed Congress quite easily, and little debate occurred over the meaning of the park, or if it would lead to further land preservation in the future. The fact that the lands had been uninhabited, and determined to be of little resource value, helped the bill to pass with negligible debate. To many in Congress, the creation of Yellowstone National Park did not represent the beginning of a system of parks, but the withdrawal of a region barely known or used that included incredible natural beauty and had widespread public support. Little did the 42nd Congress know that this law would set a precedent for many other land preservation efforts, becoming the moment where the American conception of land evolved beyond a purely economic resource.

Parks before a System: After Yellowstone, Before a National Park Service

Considering the unique nature of Yellowstone National Park's formation, it is unsurprising that Yellowstone remained the only national park for nearly two decades. This substantive hiatus between the country's first two parks highlights the fact that no one had intended Yellowstone to start a system, or even that an additional national park would ever be created.²⁵³ Yet three important developments following Yellowstone's designation made the formation of additional national parks possible. First, from the 1870s-1890s, a building awareness of the overuse of natural resources ignited the realization that the abundant prosperity of the nation was, in fact, exhaustible. As discussed in detail in the earlier chapter on the national forests, businesses and entrepreneurs pillaged natural resources at an incredible rate to feed the development of

²⁵³ Dwight F. Rettie, *Our National Park: System Caring for America's Greatest Natural and Historic Treasures*, (Chicago: University of Illinois Press, 1995): 4 and Zaslowky and Watkins 20-21.

America's industrial revolution. The realization of the limited nature of American resources occurred particularly in response to the decimation of many of the country's forests, as timber mills wreaked havoc from the Northeast to the Midwest and finally out to the Western territories. The recognition that such actions could lead to a timber famine helped to inspire the movement of the 1880s for some level of protection for forests on federally-owned lands; what would eventually become national forests.²⁵⁴

The two additional developments that helped to spark awareness and concern over the use of natural resources rested upon cultural notions. One, the new nation finally encompassed all of the territory from the East to West coasts, ending its ever westward expansion. The announcement that the frontier had in fact "closed," forced an awareness that the nation could not simply expand in order to meet demand for both land and resources. With the border extending as far west as possible, the American people now needed to settle within the still vast, but now bounded, territory. Two, the country's relative infancy dictated a nascent American identity and culture. Particularly with the end of the Civil War in 1865, Americans sought to find common ground in their nationality, to heal the wounds of bitter battles for so many years. Yet without a long history to fall upon, an American identity remained unclear. The young country could not look to years of cultural development like those in Europe, where museums, libraries, and theaters teemed with examples of what it meant to be French, English, or German. So instead the American people looked to what they did have, what made them unique in comparison to their European counterparts: natural landscapes relatively untouched and

²⁵⁴ For a more detailed discussion of the impact of the timber industry and the industrial revolution on the use of natural resources in America, see Chapter II: National Forests. Bernhard E. Fernow, *A Brief History of Forestry in Europe, the United States, and Other Countries*, (Toronto: University Press, 1911): 470-473, 479, quotation on 471, and Zaslowsky and Watkins 62-67.

filled with beauty.²⁵⁵ The new nation, recovering from war as it encountered growing pains, could look to its natural wonders for a sense of what it meant to be American. All of these forces thus helped to bring about the idea of conservation, and concerted efforts for the preservation of *American* entities.

As shown in the previous three chapters, these forces for conservation inspired federal protection of natural resources within America through the Forest Reserve Act of 1891, the creation of the first national wildlife refuge in 1903, and the Antiquities Act of 1906. During the same time period, the development of America's national parks continued. After an 18 year lull, Congress created three national parks in California in 1890: Sequoia, Yosemite, and Kings Canyon. After these designations, Congress passed six laws forming national parks in six different states by 1915. Therefore, between 1872 and 1915, America gained 10 national parks spanning 7 states or territories; a substantial foundation for what would become the National Park System. However, these 10 parks hardly constituted a system. Formed by individual pieces of legislation, the parks were geographically disparate and lacked resources for effective management. The parks received little to no funding in their founding legislation, thus leaving them open to vandalism and even destruction by visitors and travelers. Consequently, many of the protected lands suffered during their first years, extending into decades of neglect for some. The U.S. Cavalry provided a temporary solution to the management of the parks.

²⁵⁵ David Harmon, Francis P. McManamon, and Dwight T. Pitcaithley, "The Antiquities Act A Cornerstone of Archaeology, Historic Preservation, and Conservation," in *The Antiquities Act A Century of American Archaeology, Historic Preservation, and Nature Conservation*, Eds. David Harmon, Francis P. McManamon, and Dwight T. Pitcaithley, (Tucson, AZ: University of Arizona Press, 2006): 267-269, Mason 20, Char Miller, "Landmark Decision The Antiquities Act, Big-Stick Conservation, and the Modern State," in *The Antiquities Act A Century of American Archaeology, Historic Preservation, and Nature Conservation*, 70-71, 77, Hal Rothman, *Preserving Different Pasts: The American National Monuments*, (Urbana, IL: University of Illinois Press, 1989): 7-10, and Alfred Runte, *National Parks: The American Experience*, (Lanham, MD: Taylor Trade Publishing, 2010): 61-65.

Called upon to protect Yellowstone from vandals, the Army's presence soon spread to a number of other national parks where they effectively provided protection. Congress even allocated funds to the Cavalry for their services and to improve the parks' condition.²⁵⁶ Thus some of the park's earliest developments, like the building of access roads, came from the hands of American military members.

Despite the Army's valiant efforts to maintain and protect the national parks, the need for an independent management agency became all too clear by the second decade of the 1900s. Unfortunately for the parks, earlier efforts to form a dedicated department failed, with bills introduced in the House as early as 1900 by Representative John Lacey of Iowa.²⁵⁷ Lacey's proposals sought to provide the authority to create national parks and other public land reservations, and thus served as a precursor to the National Park Service Act of 1916 and the Antiquities Act of 1906. Interestingly, as discussed in the previous chapter, the bill delegated power to the president, rather than Congress, to designate a myriad of public land preserves based upon scientific, cultural, and historic merits.²⁵⁸ Had Lacey's bill become law, the presidency would have had the power to form national parks in addition to national monuments and many other types of reserves. It also would have created a national park bureau in the federal government 16 years earlier than the formation of the NPS. While Lacey's bill failed to gain support in 1900, it served as a foundational effort for both of the public lands acts of 1906 and 1916.

In addition to earlier legislative efforts, governmental and outside forces worked to gain support for better management of the national parks. Important organizations and

²⁵⁶ Everhart 9-10, Ise 20-22, 27-30, Barry Mackintosh, *The National Parks: Shaping the System*, (Washington, D.C.: National Park Service Division of Publications, 2004): 11-13, and Wilson 71.

²⁵⁷ Representative John Lacey, as discussed in detail in Chapter IV, played an important role in the development of the Antiquities Act of 1906 which provided for the establishment of national monuments.

²⁵⁸ H.R. 11021, 56th Cong. (1900) and H.R. 13478, 58th Cong. (1904).

celebrated individuals such as the Sierra Club, the American Civic Association, and Frederick Law Olmstead petitioned Congress to develop an agency dedicated solely to the national parks.²⁵⁹ The desire for a national park agency gained an important ally in 1911 when President Taft gave a speech to the American Civic Association's annual convention during which he called for better and concerted governmental management of the parks. In his annual message the following year, Taft again lent his support by stating that a Bureau of National Parks should be created:

I earnestly recommend the establishment of a Bureau of National Parks. Such legislation is essential to the proper management of those wondrous manifestations of nature, so startling and so beautiful that everyone recognizes the obligations of the Government to preserve them for the edification and recreation of the people... Every consideration of patriotism and the love of nature and of beauty and of art requires us to expend money enough to bring all these natural wonders within each reach of the people.²⁶⁰

Following these requests by the president, the 62nd and 63rd Congresses considered bills for a national parks department from 1911-1913. Despite four different legislators in both the House and Senate introducing six different bills, Congress never even sent the bills to their relevant committees. All of the bills died quickly after introduction.²⁶¹ These legislative efforts failed due the influence of a young government agency: the Forest Service. Working in Congress, the Forest Service launched a counter initiative to the proposed bureau. The Service, afraid of losing some of its jurisdiction and land to a new agency for national parks, contended that they could better care for the

²⁵⁹ Ise 188 and Harmony A. Mappes, "National Parks: For Use and 'Enjoyment' or for 'Preservation?' and the Role of the National Park Service *Management Policies* in that Determination," *Iowa Law Review*, 92, (2006-2007): 606.

²⁶⁰ William Howard Taft, "Message of the President of the United States Concerning the Work of the Interior Department and Other Matters, Communicated to the Two Houses of Congress," February 2, 1912: 8-9.

²⁶¹ H.R. 16090, 62nd Cong., (1911), S. 3463, 62nd Cong., (1911), H.R. 18716, 62nd Cong., (1912), H.R. 22995, 62nd Cong., (1912), H.R. 104, 63rd Cong., (1913), and S. 826, 63rd Cong., (1913).

parks with their infrastructure and organization already in place; consequently negating the need for a new government bureau.²⁶² Thus the proposed park-specific agency continually met opposition from different sources over the years, leading to continual failures in Congress.

The Forest Service may have succeeded in preventing a new national park agency for many more years had it not been for the personality and dedication of one person joining the park service campaign: Stephen Mather. A self-made millionaire by the age of 47 and a lover of the outdoors, Mather's success came through the inventive marketing of his company's product, borax. Mather made the jump from private mogul to federal government employee in a particularly unusual manner. After a trip to Yosemite National Park, Mather reportedly wrote to his friend and current Secretary of the Interior, Franklin Lane, regarding the poor conditions he found within the park. Mather argued something needed to be done to improve management. In his reply, Lane challenged Mather to come to Washington and find a way to better protect the parks himself. Never one to shy away from a challenge, and a lifelong believer in the importance of nature and wildlife, Mather took Lane up on his offer.²⁶³

Moving to Washington, Mather became the Special Assistant to the Secretary for the National Parks. In this position, Mather took it upon himself to create public demand for a national parks bureau so that Congress could no longer delay action. Using the same marketing prowess that made him millions of dollars, Mather worked with editors, publishers, mayors, governors, civic leaders, and environmentalists to build a broad base

²⁶² Horace Albright, *The Birth of the National Park Service The Founding Years, 1913-33*, (Salt Lake City, UT: Institute of the American West Books, 1985): 8, 34-35, 188-190, Runte 89, and Robert Shankland, *Steve Mather of the National Parks*, (New York: Knopf, 1951): 100.

²⁶³ Everhart 13-15, Runte 92-93, and Wilson 80-81.

of support for the proposed parks department. The April 1916 edition of the *National Geographic*, dedicated almost fully to the national parks and their merits, magically found its way to Congress members' desks. *The Saturday Evening Post* highlighted the parks in editorials and articles throughout the year, inspiring favorable public opinion. Mather even led two groups of prominent Congressional and business leaders through Sequoia and Yosemite National Parks in 1915 and 1916, hoping the firsthand interactions would prove the need. Additionally, and importantly, Mather gained the support of the nation's major railroad companies which viewed the development of the parks as an opportunity for tourism and travel. With a coalition as broad as possible, Mather hoped to accomplish what none before had managed.²⁶⁴

Mather's efforts to pressure Congress finally paid off in the spring of 1916. The House passed a national parks bill with no debate, and the Senate signed off after minimal amendments. President Woodrow Wilson signed the National Park Service Organic Act into law on August 25, 1916. The act stipulated three major points. First, it created the National Park Service as an independent agency to protect and manage the national parks. The Service would:

...promote and regulate the use of Federal areas known as national parks, monuments, and reservations...which purpose is to conserve the scenery and the natural and historic objects and the wildlife therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.²⁶⁵

Second, the act fashioned the disparate parks into a deliberate system. The new system also included areas other than national parks, such as national monuments and other unspecified reservations. By doing so, Congress granted the National Park Service a

²⁶⁴ Albright 38-39, Everhart 14-16, Ise 190, Shankland 84-85, 102-103, and Runte 92-95.

²⁶⁵ The National Park Service Organic Act (16 U.S.C. 1 2 3, and 4), as set forth herein, consists of the Act of Aug. 25 1916 (39 Stat. 535).

wider jurisdiction over which to administer than just the 10 national parks in existence at the time. Third, and most importantly here, the act stipulated that national parks could only be established by Congress. Therefore the National Park Service Organic Act broke with the pattern of Congressional grants of establishment authority to the presidency seen in the Forest Reserve Act and the Antiquities Act.²⁶⁶ Considering Congress formed the first 10 national parks before the 1916 act, this power clause is not surprising. Congress simply retained its control over national park establishment that began with Yellowstone's designation in 1872.

The formation of the first national parks therefore molded the National Park System as Americans know it today. The designation of Yellowstone National Park in 1872 came about because a group of individuals traversed the region and recognized its unique beauty as something worthy of protection. However, Congress' action in 1872 did not mark the conscious beginning of a system; instead it represented a rare exception to the then-dominant practice of disposing public lands to private hands. With the rush of industrial development in the last three decades of the 19th century, calls for conservation and preservation began to coalesce via multiple outlets. Congress again acted to create individual parks, and only once their numbers reached more than a few did the possibility that they might be something more, that they might be a managed system, begin to form. By this point however, the role of Congress as park creator was cemented by precedent, receiving formal confirmation in the National Park Service Organic Act of 1916. The allocation of establishment authority for the parks consequently followed a very different pattern, for the legislation sought *not to initiate* a new type of land preserve, like that seen with national forests and monuments, but to *create an agency* for reserves already in

²⁶⁶ Albright 44-45, Ise 191-193, and The National Park Service Organic Act.

existence. Thus the pattern of early national park formation ultimately shaped the roles of Congress and the presidency in the system's development.

The National Park System Today: A Brief Overview

With the passage of the National Park Service Organic Act of 1916, the parks became a national system of public lands protected for conservation and recreation purposes. The act provided for the inclusion of other types of land reserves, specifically national monuments, and more generally unspecified "reservations" to be under the purview of the Service. The broad nature of the legislation's language allowed for the continued expansion of the National Park Service's jurisdiction, which today includes a variety of land designations other than national parks; such as national monuments, battlefields, military parks, historical parks, historic sites, lakeshores, seashores, recreation areas, scenic rivers and trails, and the White House. These reserves vary in size and nature. The NPS manages each type of land using specific methods according to the title and purposes listed within their individual authorizing legislation or executive directive (such as executive orders, presidential proclamations, or agency orders).²⁶⁷

As for the national parks category, Congress designated 59 parks since its first piece of legislation authorizing Yellowstone in 1872. At the end of 2015, the national parks encompassed around 50.5 million acres of federally-owned or leased land. When additional public and privately owned lands are included in the calculation, national parks cover approximately 52.2 million acres.²⁶⁸ The smaller number of parks compared to forests, wildlife refuges, and monuments should not be surprising however, as the

²⁶⁷ Comay, Laura B., *National Park System: What Do the Different Park Titles Signify?*, (Washington, D.C.: Congressional Research Service, 2013): 1-7.

²⁶⁸ National Park Service, "Summary of Acreage," (Washington D.C.: National Park Service Land Resources Division, 2015).

national parks require individual laws to be created. Additionally, the national parks hold a special elevated position in federal land preservation when compared to other land reserves. The national parks are often described as the “crown jewels” of federally-protected lands, representing the best and most scenic landscapes in America.²⁶⁹ The combination of these two factors contributes to the rare nature of national park establishment.

The national parks follow many of the same geographic patterns as national forests, wildlife refuges, and monuments. Similar to these categories, the majority of national parks are in the western portion of the United States. This reflects the fact that land preservation in America began at the point when much of the eastern United States had been sold for private development, and many of the western states or territories had yet to be settled. Therefore the majority of the lands open to the federal government for national park distinction resided in the West. However, like the development of other land preservation types, national parks did eventually spread to the eastern U.S., through the purchases of private land by the federal government. The state of California hosts the most national parks in the union, with 9 parks located within its borders. The state of Alaska comes in second with 8 national parks. Many of these parks formed in 1980 under the Alaska National Interest Lands Conservation Act, when the federal government ultimately determined the amount of acreage available for private development and public protection in the new state.²⁷⁰

The National Park System of the United States covers a wide variety of areas in a multitude of states. While fewer national park units exist compared to the three other

²⁶⁹ Zaslowsky and Watkins 12.

²⁷⁰ Alaska National Interest Lands Conservation Act of 1980, Pub. L. No. 96-487, 16 U.S.C. 51 (1980) and Table VII: National Parks.

major categories of federally-protected lands, they represent the ultimate in terms of land preservation in the United States and serve as an important precedent in the world.

National parks therefore hold a special place in the minds and hearts of Americans, especially in terms of their knowledge or exposure to public lands. Consequently, it is important to determine how the presidency managed to play an important part in the formation of these lands, despite Congress' seemingly exclusive role in their establishment.

National Monuments: The Connection between the Presidency and the National Parks

From the above description and analysis of the national parks, one could easily assume that the institution of the presidency played little to no role in their formation. Yet a thorough analysis of the national parks highlights a more complex story. By examining the connection between the national monuments and national parks, it becomes clear that the presidency did in fact play a vital, albeit indirect, role in the formation of the national park system. Thus the second segment of this chapter traces the origins of the national parks to illustrate this connection. First, a brief discussion of the national monuments highlights their association to the national park system and the National Park Service. Second, an analysis of the patterns of national monument and national park creation proves the substantial indirect influence of the presidency on the national parks. Third, a national park case shows how the institution of the presidency continued to impact the park's development well beyond providing its original authority and land.²⁷¹

²⁷¹ Providing the source of park's original designation refers to the specific tracts of land from which Congress withdrew national park acreage.

Presidential National Monuments: A Concise Overview of the Antiquities Act

The Antiquities Act of 1906 defined and instituted the national monument category in federal land preservation. As covered in the previous chapter, the law called for the federal protection of lands that held objects of “historic or scientific interest.” The impetus for the act came primarily from the archeological and anthropological fields, newly formed in America at the time, which sought to regulate the areas, minimizing vandalism and theft of early ruins found predominantly in the Southwestern United States. Congress members debating the act initially wanted to protect only very small areas of 320 or 640 acres around specific archeological sites. Yet the language of the law allowed for much broader discretion, permitting any size area to be withdrawn based upon what was deemed necessary for the protection of the specific object being preserved. The act also, and most importantly for this discussion, provided the power of establishment of national monuments to the presidency, not Congress. Following in the footsteps of the national forests, supporters of the law wanted presidential creation authority so that each proposed monument would not get trapped in the complicated process of Congressional designation. Seeking to remove the issue from the potential quagmire of local political interests, the Antiquities Act made it possible for the president to designate national monuments.²⁷²

The Antiquities Act’s provisions combined to provide the presidency with an extremely discretionary authority. Presidents implementing the Antiquities Act therefore had the choice to use this discretion conservatively or enthusiastically. As covered in the last chapter, presidents, starting with Theodore Roosevelt in 1906, primarily chose the

²⁷² Antiquities Act of 1906, 16 U.S.C. §§ 431-433 (1906), Lee 74-75, Rothman *Preserving Different Pasts* 46- 47, and Waldbauer and Hutt 42.

latter path. By 1906, Roosevelt used the Forest Reserve Act of 1891 to establish numerous national forests, and exercised executive initiative to create the first national wildlife refuge in 1903. His first 10 national monuments followed the intended purposes of the Antiquities Act, creating smaller units that focused upon specific areas of historic and scientific interest.²⁷³ Yet this pattern of creation changed when Roosevelt designated the Grand Canyon as his eleventh national monument. At 808,120 acres, and primarily focused upon objects of scientific natural interest, the monument took the discretion given to the presidency within the act to a new level. Roosevelt acted similarly with his final national monument designation of Mount Olympus in 1909. With 639,200 acres and again a focus on scientific interests, Roosevelt cemented a strong precedent: the Antiquities Act provided discretionary power to the president, and the president could and should use it for the benefit of the American people.²⁷⁴

From 1906 to 2016, presidents created a total of 152 national monuments. Of the 19 presidents eligible to use the power to designate monuments, 15 of them have done so. The monuments created by these 15 presidents total over 288 million acres. Of those 288 million acres, about 214.75 million came from four marine national monuments proclaimed by President George W. Bush, and 3.1 million from one marine national monument declared by President Obama. Consequently, presidentially-formed dry-land monuments consist of approximately 70.2 million acres. Individual monuments vary

²⁷³ However, many of Roosevelt's first monuments preserved *scientific* objects, seen as a secondary purpose to historic objects, and highlighting the discretion within the phrase "objects of historic or scientific interest."

²⁷⁴ Douglas Brinkley, *The Wilderness Warrior Theodore Roosevelt and the Crusade for America*, (New York: Harper, 2009): 756-757, Ronald F. Lee, *The Antiquities Act of 1906*, (Washington, D.C.: Office of History and Historic Architecture, Eastern Service Center, 1970): 90-91, Francis P. McManamon, "The Antiquities Act and How Theodore Roosevelt Shaped It," *The George Wright Forum*, 31, 1 (2014): 338-339, Rothman *Preserving Different Pasts* 54-59, 65-66, 68-69 and Runte 67-68. See also, Table V: Presidential Monuments.

widely in terms of acreage, with some comprising less than an acre to the largest monument reaching over 214 million acres.²⁷⁵ Presidentially established national monuments accordingly form a large part of the federal land system of the United States.

Original Authority as Conduit: The Presidency and the National Parks

The role of the presidency in the national parks derives from the creation of presidential national monuments.²⁷⁶ For when tracing the origins of the national parks, a significant pattern emerges: many of the national parks were first presidentially-established national monuments. Twenty-seven of the 152 national monuments formed by executive action eventually became national parks.²⁷⁷ Two others, Lehman Caves and Marble Canyon, were incorporated into national parks. Consequently, 45.8% of the national parks, 27 out of 59, came from land originally protected by the presidency, not Congress. If we add in the two incorporated national monuments, this number increases to 49.2% of national parks.²⁷⁸ Therefore almost half of the national parks originated as federal protected lands through a presidential order, *not* an act of Congress.

With the foundation of the NPS in 1916, the conversion of national monuments into national parks became a regular occurrence. Nearly every decade between 1916 and present day saw at least one national monument become a national park. Only the 1940s and 1960s did not see a monument to park transition. The 1980s saw the highest number of national parks created from national monument lands, with a total of 7 parks formed in this manner. Yet this number in regards to the overall decade is a bit misleading, as

Congress established 6 of the 7 parks through the Alaska National Interests Lands

²⁷⁵ Table V: Presidential Monuments.

²⁷⁶ As seen in Chapter IV: National Monuments, Congress is able, and has, created its own national monuments. But the presidency is seen as the “main” designator of national monuments.

²⁷⁷ In the following discussion of national monuments and national parks, the term “national monuments” refers to the 152 presidentially-created national monuments only.

²⁷⁸ Table VIII: National Monuments to National Parks.

Conservation Act of 1980 from lands originally set aside by President Carter as national monuments only two years before in 1978. All of the remaining decades that included conversions saw 2-4 monuments convert into parks.²⁷⁹

The length of time between presidential national monument designation and Congressional national park re-designation varies quite widely. The shortest duration between monument and park designation is one year. President Warren G. Harding established Bryce Canyon National Monument in 1923, and Congress turned the monument into a national park in 1924. The longest period of time between a monument's creation and its transformation to a national park is 104 years. Pinnacles National Monument, created by President Roosevelt's executive order on November 16, 1908 became Pinnacles National Park on January 10, 2013 by an act of the 113th Congress. The 27 national monuments that became national parks waited an average of 32.29 years before their conversions. If we remove the 6 monuments from the ANICLA of 1980 from this calculation, since each of those 6 only remained so for 2 years, the average amount of time between national monument and national park designation increases to 37.55 years.²⁸⁰

While the number of national monuments that transitioned to national parks was not higher in the earliest decades of the NPS, the amount of time between the monument-to-park conversions was often shorter. The earliest national monuments to turn into national parks experienced quick re-designations, especially when compared to their later counterparts. The 8 national monuments that became national parks between 1916 and 1930 did so in less than 12.5 years. The average wait time between designations for these

²⁷⁹ Table VIII: National Monuments to National Parks.

²⁸⁰ Table VIII: National Monuments to National Parks.

8 monuments was less than 7.5 years.²⁸¹ This shorter duration between executive and Congressional action makes sense considering that the newly formed NPS looked to national monuments for possible national park status in its earlier years, and many monuments were seen to be presidential “placeholders” for national parks until enough Congressional support could be procured.

National monuments, especially in the foundational years of the NPS, acted as “stepping stones” for areas deemed worthy of preservation as national parks. While this practice became popular after 1916, presidents viewed monuments in the same way after the Antiquities Act passed in 1906. As discussed in Chapter IV, President Roosevelt proclaimed the Grand Canyon a national monument precisely because Congress failed to make it a national park.²⁸² The proclivity of the NPS to look to national monuments for potential new national parks in its recommendations to Congress can also be seen in the percentage of overall national park designations in the NPS’ earliest years. Of the 17 national parks first created by Congress after the establishment of the NPS, 8 originated as national monuments. Therefore almost half of the national parks formed in the first 22 years of the NPS’ existence came from lands originally withdrawn by the presidency.²⁸³

The story of national park establishment appears straightforward. Congress first created Yellowstone National Park in 1872. Congress then continued to form parks in a random manner through the first decade of the 20th century. Congress created the National Park Service in 1916 to administer the parks, and granted the authority to establish national parks to the Congress, maintaining the original method of

²⁸¹ Table VIII: National Monuments to National Parks.

²⁸² Hampton 42, Robert W. Righter, “National Monuments to National Parks: The Use of the Antiquities Act of 1906.” *The Western Historical Quarterly*. 20, 3 (Aug. 1989): 292-293-294, and Rothman “Second-Class Sites” 89.

²⁸³ Table VIII: National Monuments to National Parks and Table VII: National Parks.

establishment. National parks continue to be designated by Congress through present day. The presidency appears to be left out of the story. Individual presidents petitioned Congress for individual parks, but no obvious role for the presidency presents itself.

Yet by looking beneath the surface of Congressional creation of national parks, and the role of the NPS in recommending locations for park status, the indirect role of the presidency emerges. Executive action originally protected *almost half of the national parks* in the system today. The duration of time seen between monument and park conversions, averaging about 33 years, at least suggests that had presidential action not been taken, the lands in many of our national parks could have been lost to development while waiting for Congressional action. The very notion that national monuments acted as “placeholders” for national parks in some cases proves that Congressional action often took too long when quick protection was necessary. Historian William Everhart perfectly encapsulates the outcome of Congressional delay for park creation in his book *The National Park Service*: “national parks can be created only by an act of Congress, and they have been intermittently set aside, one by one, mostly after interminable deliberation.”²⁸⁴ So even though no president ever established a national park, the presidency made many of the national parks possible through energetic executive designation of national monument lands.

Presidential Initiative Every Step of the Way: The Case of the Grand Canyon

The presidency, through the Antiquities Act, acted as the original authority for nearly half of our national parks. The role of the presidency in a few national parks however did not stop there. The Grand Canyon, Zion, and Olympic National Parks represent cases where the presidency contributed to their development beyond a national

²⁸⁴ Everhart 128-129.

monument designation.²⁸⁵ The Grand Canyon case is the ultimate example of continued presidential action in a national park. In short, the area now known as Grand Canyon National Park²⁸⁶ has been, at one time or another, a national forest, a national wildlife refuge, a national monument, and a national park. By tracing the story of the Grand Canyon, we see a similar presidential-Congressional dynamic as that highlighted throughout the previous chapters, thus showing how the presidency served as the dominant and foundational political institution in the creation of one of our nation's most highly regarded public reserves.

The Grand Canyon officially became a national park in 1919, yet calls for the region to be protected as such began long before. In 1882, a mere ten years after the formation of Yellowstone, bills to consider the Grand Canyon area for national park status began surfaced in Congress. In fact, the first attempt to do so came from the desk of then Senator Benjamin Harrison of Indiana. Harrison's bill failed, and two other attempts during the 1880s met the same fate. According to public lands historians, the reasons behind the failure of these bills remains unclear.²⁸⁷ Thus the story of the Grand Canyon began with Congressional inaction.

The passage of the Forest Reserve Act of 1891 provided a new option for protection after the legislative failures of the 1880s. Now-President Benjamin Harrison seized the opportunity and used the power to declare portions of the Grand Canyon

²⁸⁵ A review of the following sources determined which cases had more than one instance of presidential action. *The National Parks: Index 2009-2011*, The National Park Service, (Washington, D.C.: U.S. Government Printing Office, 2011): 14-94, *Proclamations and Orders Relating to the National Park Service, Vol. II, January 1, 1945-January 20, 2001*, (Washington, D.C.: National Park Service, 2004): 1-11, and Thomas Alan Sullivan, *Proclamations and Orders Relating to the National Park Service Up to January 1, 1945*, (Washington, D.C.: United States Government Printing Office, 1947): 9-57.

²⁸⁶ The phrase "the area now known as Grand Canyon National Park" is used generally here. The different designations have protected different areas and acreage amounts within the same region.

²⁸⁷ Righter 285 and Runte 39.

region as a forest reserve by presidential proclamation on February 20, 1893.²⁸⁸ As president, Harrison finally had the chance to compensate for his unsuccessful legislative attempts. And it seemed, at least to a certain extent, that Harrison chose to issue his Grand Canyon proclamation *because* of his inability to pass a national park bill while a senator. This is due to the fact that a good portion of the land in the new forest reserve was not, in fact, forested. Yet Harrison wished to protect the area so much that he applied the forest reserve establishment power as broadly as he could.²⁸⁹

While Harrison's 1893 proclamation somewhat protected the Grand Canyon lands, efforts to make it a national park to provide it with higher levels of protection continued during the 1890s. Yet every proposal failed in Congress. The reason for these later failures lay with local opposition. Residents of the area believed that by setting aside the land, and thus preventing private development, the region would suffer economically. The potential for natural resources seemed too much to lose by withdrawing the area from development.²⁹⁰ Efforts continued to stall, but a change in presidency sparked new possibilities. With the death of President William McKinley and the transfer of office to Theodore Roosevelt in 1901, supporters of a Grand Canyon national park gained an important ally: the president. In his 1904 and 1905 Annual Messages to Congress, Roosevelt asked the legislature to establish the area as a national park. He also asked Congress to allow the president to designate certain areas within national forests as national wildlife refuges, or game preserves, with the Grand Canyon in

²⁸⁸ Barbara J. Morehouse, *A Place Called Grand Canyon: Contested Geographies*, (Tucson: University of Arizona Press, 1996):34-35 and Proclamation 45, 27 Stat. 1064, (Feb. 20, 1891).

²⁸⁹ Righter 285.

²⁹⁰ Morehouse 32 and Righter 285-286.

mind.²⁹¹ To the president, if national park status remained elusive for the Grand Canyon, then executive action could at least heighten protection through the designation of a wildlife refuge in the region.

Roosevelt's political awareness of the situation proved true as national park designation stayed unattainable. However, Congress did provide the president with his secondary option: the ability to authorize wildlife protection areas within Grand Canyon forest reserve. As described in detail in Chapter III, T.R. established the first wildlife reservation in 1903 without Congressional delegation. Surprisingly, Congress not only accepted Roosevelt executive initiative, but began forming its own wildlife protection areas in 1905. The second wildlife refuge to be formed by law, rather than by executive order, was the Grand Canyon Wildlife Refuge on June 29, 1906. In the act, Congress did not determine which lands in the national forest area would receive the additional protection of wildlife preserve; rather it gave the authority to the president to determine the boundaries.²⁹² Thus the 1906 Grand Canyon Game Preserve law showed Congress granting the president his request in regards to game protection on Grand Canyon lands, but not in regards to national park status. Roosevelt took what he could get however, and applied the additional level of wildlife protection within the Grand Canyon lands wherever possible.

Despite the new layer of protection acquired by the president, national park standing remained the goal for the Grand Canyon in Roosevelt's mind. Therefore he continued to call for legislation and look for other opportunities to act if Congress would

²⁹¹ Theodore Roosevelt, "State of the Union Address," December 6, 1904 and Roosevelt, "State of the Union Address," December 5, 1905.

²⁹² Act of June 29, 1906, ch. 3593, § 1 34 Stat. 607 (1906), George Cameron Coggins and Michael E. Ward, "The Law of Wildlife Management on the Federal Public Lands," *Oregon Law Review*, 60 (1981): 616, H.R. Rep. 59-4973 at 1-2 (1906), Roosevelt, "State," December 6, 1904, Roosevelt, "State," December 5, 1905, and S. Rep. 59-1586 at 1-2 (1906).

not. Roosevelt received such an opportunity with the passage of the Antiquities Act of 1906. The law delegated to the president the authority to create national monuments in order to protect objects of historic and scientific interest. Congress intended for the monuments to be small in area, but granted the president the power to decide the land needed for the protection of the specific objects. From the law's passage in 1906 to January of 1908, Roosevelt used the Antiquities Act to establish 10 national monuments. The majority of these encompassed rather small areas, with the largest designation reaching 60,000 acres of forested land. Yet when word of an imminent threat of private development along the rim of the Grand Canyon reached the desk of Roosevelt, the president decided to take action and use the Antiquities Act to declare the Grand Canyon a national monument. So on January 11, 1908, Roosevelt issued a proclamation that set aside 808,120 acres of land in the Grand Canyon region.²⁹³ Frustrated with Congressional inaction to protect the area as a national park, and seeing no results from his informal influence as president, Roosevelt unabashedly exercised the new power of the presidency.

Grand Canyon National Monument remained in existence from 1908 to 1919. While the monument designation offered a higher level of protection from private development, management suffered as agencies in charge of monuments struggled to establish effective policies.²⁹⁴ The Forest Service remained in charge of the Grand Canyon, but with increased public visitation the department struggled to handle protection of the area effectively. The need for more comprehensive management and

²⁹³ Brinkley 754-757, Lee 90-91, McManamon 338-342, Rothman *Preserving Different Pasts* 54-59, 65-66, and Theodore Roosevelt, "State of the Union Address," December 5, 1905.

²⁹⁴ Until the 1930s, national monuments remained under the jurisdiction of different agencies responsible for the lands at the time of designation.

preservation of the Grand Canyon became a rallying cry from individuals inside and outside of the government. Everyone from the current Secretary of the Interior to the editor of *The Saturday Evening Post* called on Congress to take action and finally proclaim the area a national park.²⁹⁵ The incremental and mixed nature of the Grand Canyon's designations, including national forest, game preserve, and monument lands created the difficult management issues. By converting the withdrawn lands into a national park, the Grand Canyon could be managed in the manner demanded by the increased visitation. Consequently, the Grand Canyon finally received national park designation with an act of Congress on February 26, 1919.²⁹⁶ Thus without the actions taken by presidents from Harrison to Roosevelt, one of the nation's "crown jewels" would have been developed for private gain.

One might assume that the declaration establishing Grand Canyon National Park represents the end of the park's story. However, Grand Canyon National Park of today encompasses a larger area than that of 1919. Modifications to national parks, like their designations, require an act of, or delegation of authority by, Congress. Since 1919, Grand Canyon National Park continued to grow, but not with direct Congressional action. In fact, new additions and adjacent reserves to the park exist today thanks to the presidential action. Beginning in 1927, the National Park Service, charged with the duty to manage and improve the nation's parks, began to argue for the inclusion of adjacent lands in the national park. They petitioned Congress to declare a "Toroweap Addition to Grand Canyon National Park." However, local opposition to increased federal ownership in the region prevented the Service from effectively appealing Congress for an extension

²⁹⁵ Morehouse 39, 47, and Righter 286-287.

²⁹⁶ An Act to Establish the Grand Canyon National Park in the State of Arizona, ch. 44 40 Stat. 1175 (1919).

of the park. Thus they turned to the president for assistance. On December 22, 1932, President Hoover declared the lands a national monument, named Grand Canyon II. Locals reacted strongly and negatively to the national monument, but did not manage to convince Congress to undo the president's actions and the monument stood.²⁹⁷

The Grand Canyon's development as a national park did not end in 1932. A region "adjacent and upriver to the Grand Canyon," known as Marble Canyon, became a national monument in 1969 through a proclamation by President Lyndon Baines Johnson. Johnson considered a number of regions for designation, but due to resistance in Congress, limited his actions to Marble Canyon and a few others. Despite the obstacles from Congress in both cases, which required presidential authority in place of park expansions, Congress eventually endorsed these executive actions in 1975. After years of effort, Congress passed the Grand Canyon National Park Expansion Act which finally declared both national monuments as part of the park itself.²⁹⁸

The example of the Grand Canyon illustrates the many ways the presidency can contribute to the development of a national park. The Grand Canyon is the most extreme instance of presidential involvement in terms of a single national park, this is granted. Yet the example illuminates the fact that even though only Congress can establish a national park, and therefore dictates little, if any, place for the presidency in park creation, the office played an important foundational role in some of the nation's most revered public lands. Both Congress and the presidency acted to form Grand Canyon National Park as we know it today. Yet without continued presidential action, especially

²⁹⁷ Morehouse 72-73, Proclamation No. 2022 (December 22, 1932), and Righter 287.

²⁹⁸ An Act to Further Protect the Outstanding Scenic, Natural, and Scientific Values of Grand Canyon by enlarging the Grand Canyon National Park in the State of Arizona, and for Other Purposes, Pub. L. 93-620 (1975) and Righter 287.

in regards to its earliest preservation by Presidents Harrison and Roosevelt, the lands may not have even been available for protection. Congress did aid in the earlier levels of protection by allowing for the formation of a wildlife reserve within Grand Canyon National Forest. But tellingly, Congress provided the president with the power to do so. It is not until 1919, after decades of petitions from individuals inside and outside of the government that Congress finally established the national park. And when the Park Service determined the need for additional lands, presidential action preserved them until Congress later incorporated them into the national park. Thus the pattern of Congressional inaction, followed by presidential action, and Congressional response, seen broadly in the land categories covered by the previous three chapters, determined the development of one of America's "crown jewels."

By tracing the progression of America's national parks, the simple story of Congressional dominance in terms of the system's creation becomes more complex, and the influence of the presidency becomes clearer. Nearly half of the National Park System derived from national monuments created by the presidency throughout the 20th century. Individual cases, such as the Grand Canyon, show that the presidency can continually impact lands that eventually become, or already are, national parks. In some instances, presidential designation of national monuments helped to protect areas, to serve as "placeholders" for potential parks, until Congressional support could be amassed.²⁹⁹ Concerned citizens and governmental agencies like the Park Service recognized the important role of the presidency in public lands, causing many of them turn to executive action when it seemed that Congressional action would not be swift enough. With the

²⁹⁹ Hampton 42, Ise 155, Rothman *Preserving Different Pasts*, 89, 222-223, and Rothman "Second-Class Sites" 45.

need to protect lands quickly, the presidency became a vehicle of initial action, allowing for eventual Congressional action in the future.

The National Wilderness Areas

Like national parks, national wilderness areas can only be formed by an act of Congress. Unlike national parks however, the federal wilderness idea originated in the executive branch of the federal government. The Wilderness Act of 1964 established the national wilderness system, and recognized the preservation of “untrammeled” wilderness as a policy of the national government of the United States. Yet the origins of the wilderness system began decades before 1964, and the first true wilderness areas came not from legislative dictate, but executive branch initiative. Similar to the national parks, the office of the presidency featured less in the early development of these wilderness areas. However, the institution did, and still does, play a significant indirect role in the lands that become wilderness areas. Therefore the national wilderness areas represent a broader and ancillary story of presidential influence in the second category of Congressionally-formed public lands.

The second half of this chapter traces the development of protected wilderness upon federal lands to determine and explain the complicated role of the presidency and the executive branch in the development of the National Wilderness System. First, a description of the actors and departments behind the initial wilderness areas shows that the wilderness idea formed due to executive branch initiative. Second, tracing the legislative development of the Wilderness Act of 1964 highlights the manner in which the power dynamic between the presidency and Congress determined permanent Congressional establishment power for national wilderness areas. Third, an overview

and in-depth analysis of the 770 national wilderness areas shows the indirect, but significant role of the presidency in terms of the land designated as wilderness.

The Forest Service and Primitive Areas: The Earliest Formations of American Wilderness

The Wilderness Act may have passed in 1964, but the idea for protected wilderness upon American public lands formed nearly 60 years earlier in the Forest Service. Between 1917 and the end of World War I, the Forest Service began to evaluate which parcels of national forest land could be developed for recreational purposes. In order to effectively survey the lands under agency jurisdiction, the Service hired landscape engineers to see where living and recreation facilities might be placed. One of these engineers, by the name of Arthur Carhart, began surveying various regions of forested land for possible development in 1919. Carhart, assigned to work in the Trappers Lake area of the White River National Forest in Colorado, assessed the lands' suitability for summer homes. After examining the property around Trappers Lake, Carhart advocated that none of the lands be developed, but remain untouched due to their natural beauty. Carhart's recommendation secured an agency directive to keep the area undeveloped and roadless; the earliest example of preserving specific tracts of land from intended use by the Forest Service.³⁰⁰

After White River National Forest, Carhart received a second assignment in Minnesota, to assess lands in Superior National Forest for road and lakeshore development. In Carhart's 1921 report addressing the Superior lands, he stated once again that home building should not be approved for the region. Carhart instead

³⁰⁰ Michael Frome, *Battle for Wilderness*, (Salt Lake City: University of Utah Press, 1997): 116-117 and Paul Sutter, "Putting Wilderness in Context The Interwar Origins of the Modern Wilderness Idea," in *American Wilderness A New History*, ed. Michael Lewis, (New York: Oxford University Press, 2007): 174-175.

proposed that the area be “...kept as near wilderness as possible, the wilderness feature being developed rather than any urban conditions.” He contended that keeping the area as wilderness would bring as much success for the national forests as development could. To Carhart, preserving these natural landscapes held similar appeal to such prominent public lands as the Grand Canyon or Yellowstone. Unfortunately for Carhart, many in the Forest Service did not share his enthusiasm for the idea of untouched lands, or his appreciation for their potential. Consequently, he worked with residents near the national forest in Minnesota, gaining critical public support for his recommendation. Carhart’s hard work and determination eventually paid off. The Forest Service designated the “Superior Primitive Area” in 1926, which prevented the development of roads and other recreational accommodations, allowing only for meager facilities for fire protection and sanitation.³⁰¹ The Superior Primitive Area actually marked the second of two official designations by the Forest Service of “primitive areas,” the precursors to wilderness areas. The first primitive area formed thanks to another Forest Service employee and friend of Arthur Carhart, Aldo Leopold.

Widely known today for his conservationist efforts, Aldo Leopold shared Carhart’s enthusiasm for wilderness in national forests. Working in the Albuquerque office of the Forest Service, Leopold heard about and showed interest in Carhart’s advocacy for agency-designated wild forest lands. Carhart and Leopold met in December of 1919 to discuss the development of the national forests and the possibility and value of a shift in the agency’s thinking regarding land use. After his meeting with Carhart,

³⁰¹ Frome 118, and Michael McCloskey, “The Wilderness Act of 1964: Its Background and Meaning,” *Oregon Law Review*, 45 (1965-1966):296.

Leopold drafted a document summarizing the potential for wilderness as a part of the Forest Service's management of national forests.³⁰²

Leopold argued that wilderness areas could serve as an additional resource for both the Forest Service and the country, as a complement to the resources traditionally provided by national forest land, like water and timber. The areas could offer refuge for both people and animals. According to Leopold's recommendations, Forest Service lands should be categorized into two types: 1.) easily accessible and well-forested parcels to be harvested for timber and other traditional resources, and 2.) less accessible and resource-lacking parcels to remain undeveloped for such uses as recreation, game management, and wilderness. Leopold's proposed units would serve four primary objectives: first, "prevent the annihilation of rare plants and animals," second, "guard against biotic disruption of areas still wild," third, "secure recognition, as wilderness, of low-altitude desert," and fourth, "induce Mexico to cooperate in wilderness protection."³⁰³

In addition to determining the justifications for a Forest Service wilderness policy, Leopold identified potential forested areas for designation. As a Forest Service employee in the Albuquerque office, Leopold traveled extensively in the Southwest and knew which regions might best be suited to his definition of undeveloped lands. One particular tract of land in the Gila National Forest made Leopold's list. In 1924, Leopold secured the Gila expanse as a primitive area that would not be open to roads or timber development. The Gila area is therefore considered the first "institutionalized

³⁰² Frome 119-120, Doug Scott, *The Enduring Wilderness*, (Golden, Co: Fulcrum Publishing, 2004): 27-28, and Sutter 175.

³⁰³ Frome 119-120, Aldo Leopold, "Origins and Ideals of Wilderness," *Living Wilderness*, 5, (July 1940):7, Doug Scott 28, and Sutter 175.

wilderness” on American public lands. Carhart’s Superior area, as discussed above, became the second formal designation 2 years later.³⁰⁴

The allocation of the Gila and Superior primitive areas thus initiated the idea of wilderness as an independent use of federal public lands. The origination of wilderness areas parallels aspects of the development of national monuments, national parks, and to some extent, national wildlife refuges. Like national monuments and national parks, the first wilderness units started with the protection of specific, independent areas. While Leopold and Carhart may have wanted and sought out an agency-wide policy of wilderness, neither they nor their Forest Service superiors planned *a national system of wilderness*. Additionally, like the national wildlife refuges, the first primitive areas originated outside of Congress; though through the executive branch, rather than direct presidential action. Still, early executive initiative laid the foundation for Congressional action decades later.

Towards a Broader Forest Service Policy

With a Forest Service wilderness proposal fully articulated, Aldo Leopold hoped to convince agency officials to institute a full-fledged policy. He feared that if wilderness areas formed only through individual interest, like Gila and Superior, then wilderness would never develop into an extensive, accepted use for national forest lands. As he pushed for concrete action, Leopold gained the support of a key figure in the Service, Forest Chief William B. Greeley. Greeley not only signed off on the establishment of the Gila Primitive Area, but asked for an analysis of other regions where wilderness might be designated. He wanted an account of all undeveloped parcels on Forest Service lands which totaled more than 230,400 acres at the time. The report became the basis upon

³⁰⁴ Frome 120, McCloskey “The Wilderness Act of 1964,” 296, and Sutter 175.

which the Forest Service developed its first set of agency protocols regarding wilderness: the L-20 regulations.³⁰⁵

Adopted in 1929 and originally penned by Leopold, the L-20 regulations provided the process by which regions within the national forests would receive “primitive area” status. The L-20 regulations declared it an agency priority to discover and determine tracts to remain wild. By making wilderness an agency-wide priority, the designation and protection of such areas no longer required the commitment of specific staff members, but called for a broad obligation to the idea from the highest administrative levels. While the L-20 regulations signaled a commitment to wilderness by the Forest Service, their implementation fell short. The policies placed importance upon the creation of wilderness, but did not offer strong incentives or punishments for non-compliance. The regulations did not provide specific language prohibiting development, consequently allowing for broad discretion in terms of implementation by Forest Service officials at the local level. Staff often cared more for developing and maintaining positive relationships with citizens and businessmen, and could easily push aside such conservation efforts in exchange for their demands.³⁰⁶ While the L-20 regulations created the first system of wilderness on American public lands, the discretionary nature of their application left something to be desired for those committed to the idea of wilderness protection.

With the weaknesses of Forest Service wilderness policy evident, Aldo Leopold and Arthur Carhart each left the Forest Service hoping to encourage wilderness

³⁰⁵ Frome 120-121, and Dennis Roth, “The National Forests and the Campaign for Wilderness Legislation,” *Journal of Forest History*, 28, 3, (Jul. 1984): 115.

³⁰⁶ Frome 120-121, Roth 115, Sutter 176-177, and James Morton Turner, *The Promise of Wilderness: American Environmental Politics since 1964*, (Seattle: University of Washington, 2012): 50.

development from outside of the government. As a consequence, the agency's wilderness position remained stagnant with weak application of the L-20 regulations throughout the 1930s. Like the pattern established by Carhart and Leopold, the Service's next attempt at wilderness policy came from the mind and efforts of one of its own: Robert Marshall. A Ph.D. in plant physiology, Marshall began his career as a government official with the Forest Service, then transferred to the Bureau of Indian Affairs, and eventually back to the Forest Service in the late 1930s. During the mid-1930s, Marshall worked on a wilderness area program while at the Bureau of Indian Affairs, establishing a system of wildernesses on Native American reservations. Hoping to make similar inroads on other federal lands, Marshall attempted to convince then Secretary of the Interior Harold Ickes to adopt wilderness as a department-wide policy. He achieved success when Ickes proposed a bill in Congress which would allow for such areas to be designated across all lands. However, to the chagrin of Marshall and Ickes, the National Park Association blocked the bill due to its concern that wilderness areas on public lands would diminish their recreational opportunities for the American people.³⁰⁷ Frustrated by his lack of success with Ickes and Interior, Marshall returned to the Forest Service, hoping to improve the chances for a wilderness system through agency action.

Once at the Forest Service, Marshall developed proposals for the institutionalized regulation of wilderness protection. He directed his efforts at the top levels of the agency, specifically targeting the Chief Forester, Ferdinand Silcox. Gaining Silcox's support, Marshall's ideas served as the foundation for the Forest Service's second set of policies regarding wilderness protection in the national forests: the U Regulations. The regulations stated three goals: 1.) to portray an agency commitment to the development of

³⁰⁷ Roth 116, Scott 31-32, 34, and Sutter 179.

wilderness areas, 2.) to enforce the protection of three types of wilderness areas, “wilderness,” “wild,” and “canoe,” and, 3.) to limit specific development beyond those traditionally followed within the L-20 regulations. The U Regulations prohibited timbering, road construction, and special use permits for hotels or other recreational facilities. The policy also prevented the use of motorboats or aircraft in the areas, except in cases of emergency. Mining and leasing still occurred within wilderness areas based upon existing laws, but the U Regulations tried to limit their more damaging effects. Per the new regulations, the agency reviewed the existing L-20 lands, and updated them according to the new standards. Between the two Forest Service wilderness policies, the L-20 and U Regulations, the agency set aside an estimated 14 million acres of national forest land to be administered, at least to some extent, as wilderness by the 1960s.³⁰⁸

The limited success of the two sets of wilderness regulations in the Forest Service stemmed from two primary sources: the decentralized organization of the agency and the needs produced by World War II. First, the offices of the Forest Service spanned across the country. A geographical situation such as this made the implementation of the L-20 and U Regulations difficult, as regional officers applied the policies as they wished, basing decisions upon personal or local preference. Those more sympathetic to the idea of primitive areas created more wilderness areas, those less so, formed fewer. Thus the regulations produced restrained outcomes due to little oversight and accountability across a geographically expansive department.³⁰⁹

³⁰⁸ Allin 85, Frome 124-126, Sutter 179-180, and Turner 50.

³⁰⁹ Michael C. Blumm and Lorena M. Wisehart, “The Underappreciated Role of the National Environmental Policy Act in Wilderness Designation and Management,” *Environmental Law*, 44 (2014): 329-330, fn28, Amy Rashkin, et al., “The Wilderness Act of 1964: A Practitioner’s Guide,” *Journal of Land, Resources, and Environmental Law*, 21 (2001):223, and Roth 115.

Second, World War II presented a call to arms for natural resources to aid in the war effort. The Forest Service consequently shifted its attention to the harvesting of timber and water sources in order to supply the nation. These efforts placed any wilderness creation on the back burner until the end of the war. In fact, during the war much of the efforts of external groups, like the Wilderness Society and the Sierra Club, centered upon the protection of already-formed wilderness, with little hope of establishing new ones. Yet when the war ended, the Service remained focused upon resource development, rather than transitioning back to the inclusion of wilderness in its overall policies. Many in the FS never quite warmed to the idea of wilderness, and the war gave them the opportunity to reinforce the agency's multiple-use mission.³¹⁰ Therefore the end of WWII and the later 1940s marked a period of regression in terms of American wilderness, and outside actors would soon replace internal ones as the primary force behind wilderness advocacy.

The Beginning of the End for Agency-Initiated Wilderness: External Actors and Calls for Legislation

The end of WWII represented a shift away from wilderness protection by the Forest Service. Those who supported the idea of wilderness in society therefore began to look for different policy outlets that could lead to better, and less fickle, wilderness protection. While proponents of wilderness appreciated the inroads made by the likes of Carhart, Leopold, and Marshall, the implementation of the Services' regulations showed that agency determined wilderness would not stand the test of time. With a new Chief Forester, or even a new, less sympathetic regional manager, areas of wilderness might

³¹⁰ Blumm and Wisheart 330-331, Kevin R. Marsh, "'This is Just the First Round': Designating Wilderness in the Central Oregon Cascades, 1950-1964," *Oregon Historical Quarterly*, 103, 2 (Summer 2002): 215-216, McCloskey "Wilderness Movement" 347, and Wilson 235-236.

disappear altogether with the decision of one individual. Seeking to make wilderness on public lands more secure, advocates turned their efforts to acquiring more permanent measures.³¹¹ Thus with the turn of the half century, the call for wilderness legislation emerged.

The idea for a cohesive system of wilderness received validation in a report of the Legislative Reference Bureau in 1949. Congress, represented by the chairman of the Subcommittee on the Conservation of Wildlife Resources, asked the Bureau for a review of the Forest Services' policies on primitive areas. The chairman wished to understand the current status of preserving wilderness by the federal government. The report stated the dismal condition of wilderness in its introduction:

With the growing population and the resulting utilization of more and more previously unutilized land it is becoming evident that before many years have passed there is danger that the original wilderness which was met and conquered by our forefathers in building our country will have disappeared entirely.³¹²

The report sought to provide the basis for which types of actions the government might take in terms of protecting wilderness areas, and highlighted the need for urgency: "if, then, there is reason for preserving substantial portions of the remaining wilderness it must be decided upon before it is too late."³¹³ With this report, those seeking a more permanent option for wilderness protection heard their arguments echoed by the research service of Congress in 1949, encouraging the pleas for a legislative proposal.

³¹¹ Blumm and Wisheart 3303-331, Mark Harvey, *Wilderness Forever: Howard Zahniser and the Path to the Wilderness Act*, (Seattle: University of Washington Press, 2015):153, and Mark Harvey, "Loving the Wild in Postwar America," in *American Wilderness A New History*, ed. Michael Lewis, (New York: Oxford University Press, 2007): 196-197.

³¹² C Frank Keyser, *The Preservation of Wilderness Areas An Analysis of the Opinion on the Problem*, (Washington, D.C., Legislative Reference Bureau, 1949): 9, McCloskey "The Wilderness Act of 1964," 297, and Matthew J. Ochs, "Defining Wilderness: From McCloskey to Legislative, Administrative, and Judicial Paradigms," *Denver University Law Review*, 76 (1998-1999): 662-663.

³¹³ Keyser 9.

External individuals and organizations coalesced in the 1950s to form the civic impetus for Congressional action on wilderness. In addition to the Legislative Reference Bureau's report, a University of Michigan professor by the name of Dr. James P. Gilligan wrote and published his dissertation which highlighted the weaknesses of the Forest Service's approach to wilderness. From his analysis, Gilligan recommended that wilderness gain legal protection in order to no longer be subject to the whim of Forest Service officials. Gilligan's academic credentials and support for independent wilderness legislation lent even more credence to the call for a wilderness law. Organizations dedicated to wilderness and conservation led this call for action. As stated above, both Arthur Carhart and Aldo Leopold left the Forest Service in order to place external pressure upon the government for federal wilderness. Leopold served, along with Robert Marshall and Robert Sterling Yard, as one of the founding members of the Wilderness Society in 1935. The Society's mission focused upon protecting wilderness and inspiring Americans to care for the nation's wild places. The Izaak Walton League of America, formed in 1922 to "conserve outdoor America for future generations," joined forces with the Wilderness Society in the 1950s. The organizations combined resources to further their shared goals of wilderness protection.³¹⁴ With the backing of governmental and academic research, the wilderness coalition began the incredibly long campaign for legislation.

The wilderness coalition acquired a tireless and dedicated leader in the Wilderness Society's executive director, Howard Zahniser. Prior to joining the Wilderness Society in 1945, Zahniser worked as a book reviewer for *Nature* magazine, and then as editor for the U.S. Biological Society. Zahniser's experience in these roles

³¹⁴ Harvey *Wilderness Forever*, 55-57 and McCloskey "The Wilderness Act of 1964," 297.

made him the ideal person to serve as executive secretary for the Society and the editor of its magazine, *The Living Wilderness*. His first articulation of a federal wilderness policy came in a 1951 speech to the second biennial wilderness conference, where he stated that statutory authority would serve wilderness better than relying on agency practices. After a number of years and further consideration, Zahniser elaborated on the subject at the 1955 National Citizens Planning Conference on Parks and Open Space for People. His comments attracted the attention of Senator Hubert Humphrey, who encouraged Zahniser to pen a legislative proposal. Zahniser agreed, and worked closely with related organizations to determine the best language for the law. The Sierra Club, National Parks Association, National Wildlife Federation, and the Wildlife Management Institute all contributed to the first draft, ensuring support from a broad base of external actors.³¹⁵

Zahniser's initial proposal formed the basis for all future versions of wilderness legislation. The proposed provisions included first, the official formation of a national system of wilderness areas, second, that wilderness areas would be managed by existing land agencies therefore precluding the need for a new management entity, and third, the outline of a formal process for additions to the system. In this first iteration, the procedure for establishing new wilderness areas included a mixed-power dynamic between the presidency and Congress. The president would be allowed to create areas based off of a review of all potential wildernesses by the federal land agencies. Congress could then veto these proposals if determined to be unworthy of protection. The reasoning behind the decision to give the establishment power to the president lay with the perceived ease of working with the president and executive agencies, and the fear that

³¹⁵ Harvey *Wilderness Forever* xi, 167-169, 186-187, McCloskey "Wilderness Movement," 348-349, n 6, Ochs 663, and Scott 40-41, 43-44, 47.

Congressional action for each particular wilderness would result in fewer designations over time.³¹⁶ Similar to the debates before the Antiquities Act, advocates considered presidential action more attractive than the sluggish political maneuvering needed within Congress.

Wilderness for All: The Long Legislative Road to a National Wilderness System

The Wilderness Act's legislative development from 1955 to 1964 is long and complex. During the nine years that followed Zahniser and Humphrey's first legislative attempt, Congress considered over 65 bills on wilderness and held 18 hearings on the subject. The nine years of debate, negotiation, and revision can be divided into two periods. The first period, ranging from approximately 1956 to 1960, represents the efforts of wilderness supporters to win over the relevant federal agencies. The second period, spanning the remaining 4 years between 1960 and 1964, shows advocates tackling Congressional opposition on a variety of the bill's features.³¹⁷ The Wilderness Act of 1964 consequently reflects the determination of supporters and opponents of the wilderness idea over nearly a decade of debate and consideration.

The agencies which caused numerous difficulties for the wilderness bill might come as a surprise considering their role in the development of wilderness areas: the Forest Service and the National Park Service. Both of these agencies opposed the legislation for years; much to the chagrin of Howard Zahniser who attempted to gain the agencies' support from the beginning. The Fish and Wildlife Service provided support to the wilderness bill from the start; the only agency involved in the Wilderness Act to do so. The Forest Service and National Park Service opposed the law for one main reason:

³¹⁶ McCloskey "The Wilderness Act of 1964," 298, Harvey *Wilderness Forever*, 187-188, and Scott 47-49.

³¹⁷ McCloskey "The Wilderness Act of 1964," 298.

they did not want to lose agency discretion regarding wilderness. Both departments viewed the law as hampering actions they already took, and consequently viewed the proposal as unnecessary.³¹⁸

Each agency also expressed independent concerns. First, the Forest Service believed the proposed law interfered with the agency's main policies of "multiple use" and "sustained yield." The Service fervently adhered to its "multiple use" mission, which focused upon dispersing the forests' natural resources in an efficient manner and providing recreational opportunities to the American people. Consequently, the Forest Service feared the wilderness bill would prioritize wilderness over these policies which they considered to be the backbone of the agency's mission. The Service also wanted a few smaller concessions, including the building of minimal roads for fire protection and the allowance of insect and tree disease control within wilderness units.³¹⁹

The National Park Service shared a similar concern regarding the bill's impact on their mission and priorities, but in a different manner. While the national parks did not specifically designate areas of wilderness, agency officials contended that the Service *already* protected many areas as de facto wilderness. To the Park Service, the proposed bill might actually do harm to or lower the level of protection already provided within their boundaries. The NPS feared the proposal would denigrate the park's approach to wilderness by forcing the agency to work in conjunction with the other agencies that might not live up to the national parks' standards. "In a three page letter to Zahniser, Wirth [then Chief of the NPS] stated that because the NPS already administered parks so as to keep them 'unimpaired for the enjoyment of future generations,' the agency saw

³¹⁸ Roth 121-122, Scott 50-51, and Wilson 237.

³¹⁹ Harvey, *Wilderness Forever* 197, Roth 121-122, and Scott 50-51.

‘nothing to be gained from placing such areas in the National Wilderness Preservation System as provided in the bill.’”³²⁰ So two of the three agencies associated with the proposed legislation opposed it due to fears over their agencies’ discretion and (ultimately opposite) missions.

As the leader of the wilderness effort, Zahniser felt betrayed and confused by the fact that his major opponents were federal agencies which to some level already protected wilderness within their borders. Thus he worked tirelessly to address the agencies’ concerns and gain their cooperation. Regarding the Forest Service’s main point of contention, Zahniser included a provision which specifically stated that the bill did not contradict or supersede the agency’s multiple use and sustained yield purposes. He also allowed for some concessions regarding the Service’s actions in wilderness areas, including the use of temporary roads for fires, and insect and tree disease prevention. As for the National Park Service, Zahniser inserted a clause making it clear that the agency’s standards in terms of protecting lands as wilderness would not be compromised. Moreover, he removed language from the bill designating certain areas within the parks as wilderness. Zahniser believed this concession would ease the concern over agency discretion for the NPS since the agency could make these initial decisions. With these adjustments made, both agencies gradually came to not only accept, but endorse wilderness legislation. By 1958, NPS Chief Wirth even attended a Wilderness Society event to specifically advocate for the bill.³²¹ Consequently, by 1960, supporters of

³²⁰ Harvey, *Wilderness Forever* 189, Robert B. Keiter, *To Conserve Unimpaired The Evolution of the National Park Idea*, (Washington, D.C.: Island Press, 2013): 21-22, John C. Miles, *Wilderness in National Parks: Playground or Preserve*, (Seattle: University of Washington Press, 2009): 140-143, and Roth 122.

³²¹ Harvey *Wilderness Forever* 196, 203-205, McCloskey “The Wilderness Act of 1964” 299, and Miles 148-151.

wilderness trusted that wilderness legislation would soon come to pass. Unfortunately for their cause, certain Congress members planned otherwise.

The years of 1960-1964 presented wilderness advocates with a new formidable opponent: Congress. While members of the Senate continually supported wilderness bills during these years, key members of the House of Representatives continually did not. Unfortunately for wilderness proponents, Representative Aspinall of Colorado, an outspoken adversary, held the position of chairman of the House Interior and Insular Affairs Committee. He consequently held the power to block the bill's passage and require amendments to meet his demands. Aspinall contended that two points precluded the House committee's support of the bill. First, and most importantly to this research, Aspinall argued against presidential establishment of wilderness areas. He insisted that the president should have no role in the matter, and that only an act of Congress should create new wilderness areas.³²²

Zahniser originally granted the authority fully to the president, with veto power given to Congress. Zahniser hoped that by doing so more wilderness areas would be created as the process avoided the local political consideration that inevitably came with Congressional deliberation over each proposed unit. In the final proposal considered by Aspinall however, the executive branch received the power to form wilderness areas, with the president and relevant cabinet secretaries sharing the power. Yet even this approach did not appease Aspinall. His discontent over this provision, which spread to multiple members of the House Interior Committee, can best be captured in his own words. When asked if he and his committee would ever give ground on the question of

³²² Harvey *Wilderness Forever* 230-231 and Wilson 237-238.

Congressional establishment, Aspinall responded, “not on your sweet life.”³²³ Second, Aspinall also opposed the provisions preventing mining practices within wilderness areas. He argued that the House needed to protect existing mining claims upon lands within proposed wilderness.³²⁴ Without such concessions, Aspinall maintained the bill would never pass.

Supporters of the wilderness bill, especially Zahniser, felt particularly strongly about the need for executive establishment. The call for legislation hinged upon the fact that the Forest Service, the initiator of federally-protected wilderness areas, proved to be a fickle friend to its own policies. The uncertainty of continued agency implementation made legislative permanency necessary. While the proposed act essentially returned the power back to the executive, the context and result would be radically different. The proposed law changed the circumstances as it extended the power of establishment and the policy of wilderness to more than just the Forest Service, making it a policy across the federal government. Additionally, the recommended bill cemented wilderness as a federal policy *fully endorsed by Congress*. So the fact that Zahniser and his colleagues pushed for executive establishment meant they sought a law akin to the Antiquities Act; one which provided full Congressional backing to wilderness, but still allowed for flexibility in the creation of wilderness areas. The firm commitment to an Antiquities Act-like approach held the wilderness bill in limbo for years.

With the persistent obstruction of their proposed legislation, wilderness advocates finally consented to compromise. In 1963, with another legislative proposal thwarted by

³²³ Harvey *Wilderness Forever*, 230-231 (including quotation), McCloskey “The Wilderness Act of 1964,” 300-301, and Wilson 237-238.

³²⁴ Scott 54, Thomas G. Smith, *Green Republican John Saylor and the Preservation of America's Wilderness* (Pittsburgh, PA: University of Pittsburgh Press, 2006): 170, and Wilson 237-238.

Aspinall, Zahniser reluctantly agreed to put establishment power on the table. The bill's Senate champion presented an offer to Aspinall which stated Zahniser's willingness to forego executive establishment in exchange for the bill's full consideration and passage by the House. Aspinall accepted the terms.³²⁵ From that point on, the wilderness bill stipulated that only Congress could create wilderness units on federally-protected lands. Concession on the other major point of existing mining claims soon followed. The House version of the bill allowed claims to continue within wilderness areas for 25 years. The Senate managed to bring the number of years down to 19 during the final conference committee.³²⁶ Thus Zahniser sacrificed the flexibility of executive action and the limited practice of mining in exchange for the larger goal of federally-protected wilderness.

The Wilderness Act of 1964 finally became law with the backing of the president, the federal land agencies, and the United States Congress. The House passed the bill in July of 1964, overwhelmingly endorsing the legislation with a vote of 374 to 1. Both houses of Congress passed the revised legislation on August 20, 1964. President Lyndon Baines Johnson, representing the support of the presidency first granted by John F. Kennedy, signed the bill into law on September 3, 1964. The Wilderness Act instituted the protection of wilderness for the American people as a policy of the United States. It called for the designation of wilderness areas on federally protected lands, forming a national system. Newly created areas came only from individual acts of Congress. The law included provisions which defined wilderness, designated the categories of land to be included within the system, and determined the review process by which areas within federal public lands formally become a part of the system. The law also provided

³²⁵ Harvey *Wilderness Forever*, 237-238 and Scott 54.

³²⁶ Scott 54, Smith 177, and Wilson 237-238.

management policies for wilderness areas, comprising the objects and practices permitted within wilderness areas and any exceptions to such prohibitions. Finally the law stated how lands might be donated to the government for the express purpose of becoming wilderness, and the requirement of an annual report to the president and Congress on the status of the system.³²⁷

Thus the Wilderness Act of 1964 came into fruition after 10 active years of negotiation and compromise. While the pro-wilderness advocates protected the majority of their major objectives, and succeeded in the ultimate goal of federal protection of wilderness, the legislation included key concessions to both federal agencies and Congress. Both the executive and legislative branches played essential roles in the passage of the law, but the civic involvement of outside individuals made the passage of the act possible, especially Howard Zahniser.³²⁸ The Wilderness Act therefore represented a concerted effort between government and citizens, to this day serving to make wilderness an integral part of American public lands.

Wilderness in America: A Brief Overview

The Wilderness Act of 1964 dedicated the American government to the preservation of wilderness through the creation of a National Wilderness Preservation System. As the first step in the system's formation, the law required the review of all federal public lands within 10 years of the act's passage. While the review took many years beyond this, Congress authorized numerous tracts as wilderness both within the

³²⁷ The Wilderness Act, 16 U.S.C. § 1131-1136 (1964).

³²⁸ Sadly, due to his tireless efforts, Zahniser never saw his proposed legislation become law. He passed away just two months before the House finally approved its version, and almost four months to the day before President Johnson signed the bill into law. Everyone involved in the effort mourned his death, including his most formidable foe Representative Aspinall, who despite all of his arguments with Zahniser considered him a friend. Scott 54-55 and Smith 173-175.

required review process and during the many years since. In the 52 years of the Wilderness Act's existence, Congress established 770 wilderness areas in 44 states and Puerto Rico. The Wilderness Preservation System currently consists of 109,129,657 acres, more than 12 times the original acreage designated in the Wilderness Act. Today's wilderness spans 5% of the country's total acreage, and 2.3% of the land on the continental United States. Less than half of the wilderness lies within continental America due to the fact that the majority of wilderness lands, 2.7%, fall within the state of Alaska. The Alaska National Interest Lands Conservation Act of 1980 designated 56.7 million acres as wilderness, amongst the millions of acreage dedicated to new national parks and national wildlife refuges within that legislation.³²⁹

Wilderness areas differ from the majority of federally protected areas due to their unique nature: being carved from already protected lands, rather than from undesignated lands. National forests, wildlife refuges, monuments, and parks came from lands either already owned by the federal government or otherwise acquired by the government. They represent a primary withdrawal of lands from potential private or public development. Yet wilderness areas come from already protected public lands, representing a portion of a larger reserved region with distinct management and maintenance policies. As a consequence, there is no one wilderness agency to manage the system. Instead, each federal land agency supervises the wilderness units within its boundaries. The Wilderness Act of 1964 authorized the formation of wilderness areas on lands managed by the Forest Service, the National Park Service, and the U.S. Fish and

³²⁹Alaska National Interest Lands Conservation Act of 1980, Pub. L. No. 96-487, 16 U.S.C. 51 (1980), "Fast Facts," The Wilderness Institute of the University of Montana, Available: <http://www.wilderness.net/NWPS/fastfacts>, and Table IX: National Wilderness Areas. Note that some differences in acreage and total number of wildernesses exist between author's table and current numbers due to different forms of measurement.

Wildlife Service. In 1976, the Bureau of Land Management also received permission to form wilderness areas on its lands through the Federal Land Policy and Management Act. The act, as described in previous chapters, reined in presidential power in public lands policy and shifted a number of authorities over to Congress.³³⁰ The expansion of the power to create wilderness areas reflects this desired outcome as adding the BLM lands only provided Congress, not the president, with further discretion in terms of wilderness policy.

The Presidency in National Wilderness Areas: Indirect Dominance

The establishment power for national wilderness areas originally, and nearly, went to the presidency rather than Congress. Despite the fact that calls for legislation came from individuals seeking to regulate and bring permanence to what had been ad hoc wilderness creation by an executive agency, they believed with statutory authority granted to the executive that wilderness areas would receive the best of both worlds: Congressional sanction and executive flexibility. Yet the seemingly endless debate led to a number of concessions, including the amendment that only Congress could designate new wilderness areas. Consequently the role of the presidency in national wilderness formation appears to end with the passage of the National Wilderness Act of 1964. Yet this is not true. The presidency instead played, and continues to play, an indirect role in the nature of the national wilderness system similar to that seen with national parks. When tracing the origins of the land used to form America's national wilderness, the presidency originally preserved those areas in a majority of cases.

Due to the unique nature of wilderness areas, a brief discussion of my methodology in determining the role of the presidency is required. In order to determine

³³⁰ The Federal Land Policy and Management Act, Pub. L. No. 94-579, 90 Stat. 2743 (1976).

the extent of the presidency's role in the wilderness system, I compiled a complete list of all national wilderness areas ever created. Similar to the lists compiled for the four previous land preservation categories covered so far, the list represents only new individual wilderness areas, not alterations to existing areas. In order to calculate the amount of acreage associated with the presidency, I used legislated acreage; the amount of land designated within the original law passed by Congress.³³¹

I then traced the origin of each of the national wilderness areas in order to see if the lands derived from the presidency, Congress, a particular agency, or some combination. In order to do this, I relied on the administrative unit designation provided by the four land agencies for each of the wilderness areas. The umbrella national parks, national wildlife refuges, national forests, and national monuments act as the administrative unit for national wilderness areas located within their boundaries, and thus provide a simple tool to determine the overall land reservation from which each wilderness derived. Through this process, I highlighted the indirect impact of the presidency in the wilderness system by measuring how often units were designated within presidentially-established lands.

The results of this origin-tracing process are impressive for the presidency. Out of the entire national wilderness system, 66.4% of wilderness areas originated purely from presidentially-established lands. Some wilderness areas include lands from both presidentially-established and Congressionally-established lands. For example, one wilderness area covers a portion of a presidentially-formed national forest and another

³³¹ I used legislated acreage, rather than current acreage, as legislated acreage is as similar a measurement as possible to the acreage values used in the previous chapter on national monuments. The measurements represent original acreage included in the executive action, law, or agency order formally establishing a particular reserve.

portion of Congressionally-formed Bureau of Land Management lands. These lands are mixed in nature, but still derive in part from presidentially-formed lands. These “mixed” areas represent 2.1% of the wilderness system. Additionally, some wilderness areas derive from national wildlife refuges that the U.S. Fish and Wildlife Service created. As covered in the chapter on national wildlife refuges, President Franklin Roosevelt transferred the administrative power of establishment for national wildlife refuges to the agency, so that the majority of refuges afterwards did not come from direct presidential order.³³² The wilderness areas created from these refuges represent 1.7% of the national wilderness system.

Therefore, 70.1% of the wilderness system derives from land originally preserved by the presidency and/or executive agencies. This means that only 29.9% of the national wilderness areas come from lands originally set aside by an act of Congress.³³³ Consequently, had the presidency (or the executive branch writ large in a small amount of cases), not initially protected the lands it did, Congress would not have been able to preserve millions of acres of wilderness in the past 52 years.

The institution of the presidency played a significant role in the development of the National Wilderness Preservation System, both in legislative and actual terms. Yes, it is true that only Congress holds the power to create wilderness areas. But the presidency, and executive agencies, made America’s wilderness system possible in two key ways. First, the Forest Service initiated and cultivated the idea of preserved wilderness at the federal level. The agency’s actions proved the possibility of national wilderness protection. Second, the National Wilderness Preservation System stems primarily from

³³² Exec. Order 9146 (1942). See also, Table IV: National Wildlife Refuges.

³³³ Table IX: National Wilderness Areas.

presidentially-preserved lands. The past three chapters show that without the actions of the presidency many of the nation's preserved lands may not have been protected before private development. This is not to say that Congress *could not have* acted quickly enough, at least in some cases, had it retained the power of establishment in all land categories. But considering the fact that Congress did indeed delegate this power to the presidency, and that many in support of land preservation wanted establishment power vested in the executive in many of these cases, the institution clearly came to be seen as the better vehicle for action when needed. The National Wilderness Act of 1964 might not include presidential establishment authority, but the executive office made the Congressional withdrawals of wilderness possible for the majority of the system; an immense contribution by the institution of the presidency.

Congress-Created, Presidency-Originated: The National Parks, National Wilderness Areas, and Congressional Acceptance

America's national parks and national wilderness areas differ compared to national forests, wildlife refuges, and monuments in terms of presidential involvement in their creation. In each case, Congress retained the power to designate these land reserves, rather than allow the presidency to do so. For the national parks, Congress maintained and formally codified its own establishment precedent in the National Park Service Organic Act of 1916. For the national wilderness areas, advocates originally requested presidential and executive secretarial power, but members of the House refused to pass the bill without affirmative Congressional action for each area designated. As a result, both examples do not presuppose a role for the presidency; one assumes a strong role for Congress in the establishment of parks and wilderness units. However, looking beyond these assumptions illuminates the influence of the presidency in these Congressionally-

formed reserves. For in nearly half of the national parks, and well over two-thirds of the wilderness areas, the presidency provided the original authority for the lands' preservation. As a consequence, Congress may have been prevented from acting when and how it eventually did, and our public lands system would look very different today.

Since establishment power rests with Congress in both national parks and national wilderness areas, a consideration of Congressional acceptance, as seen in the previous three chapters, is less relevant here. Congress did not specifically delegate, allow, challenge, or emulate presidential action for the national parks or wilderness areas. The presidency instead played a secondary role by facilitating later Congressional acts through earlier land withdrawals. Consequently, the Congressional acceptance categories applicable to national forests, national wildlife refuges, and national monuments *are echoed* throughout this chapter's cases. Since many national parks came from monument lands, and many wilderness units derived from all three types of presidentially formed reserves, Congressional acceptance of those originating authorities enabled the establishment of these national parks and wilderness areas.

Chart IV: National Parks, Wilderness Areas, and Congressional Acceptance

	Delegation	Allowance	Emulation	Limitation
National Forests	✓	✓		✓
National Wildlife Refuges	✓	✓	✓	
National Monuments	✓	✓	✓	✓
National Parks	(✓)	(✓)	(✓)	(✓)
National Wilderness Areas	(✓)	(✓)	(✓)	(✓)

✓ = presence of Congressional acceptance category

(✓) = echoed presence Congressional acceptance category

The final two categories of national parks and national wilderness areas prove the import of public lands policy to the presidency and vice versa. The development of these two types of reserves may have prevented direct presidential establishment authority, one

due to a different consideration of establishment power, and the other due to specific Congressional opposition, but Congress inevitably relied upon past presidential action to create the majority of these units. By showing the strong connection between the presidency and these two categories of federal lands, this research provides an additional level of support to the argument that public lands policy served a vital purpose in the development of presidential power. Presidents can not only point to formation of the national forest, national wildlife refuge, and national monument systems for proof of their influence in public lands policy; but they can also lay claim to a large portion of the national park and national wilderness systems. Considering that these five systems make up the majority of American public lands, the presidency clearly played an extraordinary role in its overall formation. And that role provides an important precedent and foothold of power for the presidency in this realm of domestic policy.

CHAPTER VI: CONCLUSION

Public land policy contributed to the development of presidential power by supplying the executive with a sustained, discretionary authority within the realm of domestic policy. The powers either delegated to or initiated by the presidency in federal land establishment originated during the late 19th and early 20th centuries; a time period not typically associated with a strong presidential institution. Yet Congress set the precedent for presidential power with the Forest Reserve Act in 1891 and continued to accept a dominant role for the president in a number of land reserve categories. In order to understand how these individual authorities created precedents and built upon each other over time, this research investigates the development of five major public land types from initiation to implementation. Tracing the Congressional responses to presidential employment of this overall authority shows how Congress continually supported and endorsed executive action; allowing for continued application and expansion of the power by the executive in public lands.

A brief review of the five public land categories presented in this research highlights the significant factors each case brings to the overall development of executive power.

National Forests

The national forest category set the stage for presidential power in public lands. The Forest Reserve Act of 1891, a rider attached to the end of an omnibus lands bill, granted the presidency the power to designate lands to be used as forest reservations. This is the first instance of Congressional delegation to the presidency to form reserved public lands. The brevity of the rider, and the resulting ambiguity of its language, provided the president with the discretion to determine the location and size of the

reservations. Congress showed a willingness to provide a strong authority to the president in 1891 even though the presidency consisted of a small administrative office, especially in comparison to the legislative body. Consequently, it is very possible that presidents could have ignored or done little with the Forest Reserve Act, making it merely an interesting historical footnote.

However, presidents applied the power. Beginning with Benjamin Harrison, the first president to hold the authority, presidents consistently declared forest reserves totaling millions of acres. The existence of, and support from, groups from outside of the government and agencies within it provided the opportunity for the regular application of the Forest Reserve Act. The first four presidents to hold the power, in fact, created the majority of our current National Forest System. In turn, Congress members attempted to rescind or reduce the president's authority, but found this difficult since forest reserves affected local areas, not widespread constituencies. Congress did eventually decrease and then remove the presidential power to form reserves, but only after presidents created the majority of the national forests in existence today. The regular application of the act consequently created the precedent for future action by subsequent officeholders, in regards to not only national forests, but also to other public land categories. Thus national forests represent two important firsts: Congress' first delegation of unilateral power to the president to reserve federal land, and the presidency's first continued application of such authority resulting in a powerful standard of presidential practice.

National Wildlife Refuges

Twelve years after the passage of the Forest Reserve Act, executive initiative created the second public land category covered in this research: national wildlife

refuges. The refuges represent a different case compared to the other land categories as the power to create them stemmed directly from the president; not from Congress. In 1903, due to a bird population crisis and the persistent endeavors of wildlife protection groups, Theodore Roosevelt withdrew a tract of federal land in Florida from private development in order to protect an island's abundant bird population. While no distinct delegation provided Roosevelt with this authority, no contrary law or regulation existed to prohibit it. Roosevelt's action could have spurred a Congressional backlash, but it did not. Working with supporters of wildlife protection, Roosevelt continued to declare refuges for birds and big game, setting the precedent for presidential formation of wildlife reserves. Instead of challenging this exercise of power, Congress provided its support by forming refuges itself beginning in 1905, with statute language delegating the authority directly to the president (thus codifying presidential power to designate refuges in these individual cases).

Presidents after Roosevelt continued the practice, leading to the eventual formation of the nation's wildlife refuge system. In the years since 1903, Congress continually provided broader and more discretionary authorities to both the presidency and executive branch for the creation of wildlife refuges. Through these actions, Congress solidified and formally institutionalized the power to establish wildlife reserves within the executive and reinforced their continued creation through to present day. Presidential initiative, unchallenged, endorsed, and cemented in multiple ways by Congress, thus founded and developed America's wildlife sanctuaries. The pattern of presidential action and Congressional support engrained the power within the executive,

granting it an additional discretionary authority to exercise within public land and domestic policy.

National Monuments

National monuments followed in the footsteps, both chronologically and in terms of executive power, of the national forests and national wildlife refuges. With the Antiquities Act of 1906, Congress granted the president the authority to establish national monuments to protect areas, items, and ruins of historic and scientific interest to the nation. The Antiquities Act's language conferred a stronger and more discretionary power than those exercised in terms of national forests and wildlife refuges. First, the Antiquities Act allowed the president to determine the location and size of the monument; thus barely limiting the executive in terms of what monuments could be. Second, Congress delegated the power directly to the president, accordingly providing full legal backing to the executive power from the start. As a consequence, the Antiquities Act presented an incredibly powerful source of authority to the president in public land policy.

Presidents, beginning with Theodore Roosevelt, applied the power consistently through mid-century. Important precedents for presidential power occurred along the way, with presidents stretching the law's language by setting aside thousands of acres of land based upon a wide variety of criteria that they contended fell within the realms of American scientific and historic interest. Governmental institutions beginning with the General Land Office and stretching to the National Park Service, Bureau of Land Management, and U.S. Fish and Wildlife Service, often supplied the impetus and administrative backing for the continued application of the Antiquities Act. Despite

challenges to, and small limitations of, the authority by Congress, presidential use of the power never fully rescinded, and even revived during the past three administrations. Congressional challenges, like those seen in the case of the national forests, faced even more difficult hurdles due not only to the similarly localized nature of monuments, but the powerful discretion granted within the Antiquities Act not seen in the Forest Reserve Act. Congress also, throughout the act's 110 year history, passed multiple statutes forming national monuments itself; often directing the president to officially designate the monuments. The combined impact of presidential application and Congressional acceptance of the executive power rendered the Antiquities Act a formidable source of authority for the presidency that still exists today.

National Parks and National Wilderness Areas

The final two categories of public lands, national parks and national wilderness areas, distinctly differ from the first three. Both of these public land types cannot be formed by the president; they can only be formed by Congress. Consequently, no connection to or influence by the presidency should be assumed in the establishment of national parks and national wilderness areas. Yet this research proves a significant indirect role for the presidency in their formation. By tracing the origins of national parks and wilderness areas, it becomes clear that many of them derive from presidency-originated reserves. Nearly half of America's national parks were first declared as national monuments, meaning half of our most prized protected lands may not have been formed without these initial presidential acts. Congress eventually protected these lands through park designations, but had history waited for Congress to act, the land may have been sold and developed for private use.

As for national wilderness areas, which are designated on the already reserved lands of national forests, wildlife refuges, monuments and parks, 66.5% derive from presidency-formed reserves. Taking into account those lands reserved by the executive branch, this number increases to 70.1%. So the executive, writ large, originally protected well over two-thirds of the land which became America's protected wilderness. Therefore, even though Congress did not allow the president to form national parks or wilderness areas, it did rely upon the exercise of presidential power for the lands from which these designations came. Identifying and analyzing this critical yet indirect role of the presidency in the creation of America's national park and wilderness systems adds an important layer of support to the overall argument that public land policy enhanced, and continues to enhance, presidential power.

Public Land Policy, Presidential Action, and Congressional Acceptance

Thus the combined effects of presidential action and Congressional acceptance for over a century and in multiple public land categories created a strong source of discretionary authority from which the executive could draw. The patterns identified in this research also highlight why presidential action and Congressional acceptance in this policy realm developed in such a way as to provide a strong foothold of presidential power.

In terms of presidential action, presidents ultimately determined whether they took action to protect public lands, yet internal and external forces encouraged continued action over time. Presidents received both political and administrative support for designations from political groups and related agencies. First, the majority of the public land categories presented here initiated in response to a perceived danger for the

particular entity or resource the reserves eventually protected. For example, wildlife refuges originated due to the high demand for and overkilling of birds for women's fashion. These threats encouraged the development of political groups which petitioned the president to take action for protection even after the initial risk diminished. Second, the presidency received internal political and administrative support from invested executive agencies. The formation and development of agencies ranging from the General Land Office to the U.S. Fish and Wildlife Service fostered the application of these executive powers by institutionalizing them, at least to some extent, in the executive branch.

In terms of Congressional acceptance, the character of public land policy assisted and encouraged acquiescence from Congress due to the localized nature of public land reservations. While specific Congress members may have wished to take broader action against presidential authority due to their discontent over specific designations, cultivating enough support to achieve revocations or reversals of the land establishment authorities proved unsuccessful time and again. This reality combined with the cumulative measures of Congressional acceptance over time helped presidential power and action in public land policy remain intact despite these Congressional challenges. Identifying and analyzing these sources of presidential and Congressional action furthers our understanding of which policy areas might have characteristics most sympathetic to presidential influence, and thus potentially play a significant role in the development of presidential power.

This overall review of presidential action and Congressional acceptance in the five categories of public lands highlights the way in which the presidency played a

dominant role in the development of America's federal land system, and the manner in which this policy area enriched the power of the office itself.

Presidential Contribution to the Federal Public Lands System

The previous chapters trace the development of five major public land categories from their originating laws or directives through the detailed calculation of their implementation by the presidency and Congress. Each chapter analyzed complete datasets of every forest, refuge, monument, park, and wilderness area, totaling 2,099 units, to determine patterns of establishment over time.³³⁴ In order to fully understand the impact of the presidency on these five major land types, and therefore the office's effect on the majority of federal public lands, a final tally of the presidency's contribution is necessary.

Based upon the calculations and data collected within this dissertation, the presidency directly established 795 units of federal public lands, including those units that may no longer be classified as such. This includes the national forests, wildlife refuges, and monuments that came directly from a presidential executive order or proclamation. The total number increases to 1,169 when we include those units directly formed by the executive branch or joint efforts between the presidency and Congress.³³⁵ The number of units indirectly established by the presidency is 538, which represent the parks and wilderness areas that the president initially designated as a monument, forest, or refuge before Congress declared it a park or wilderness area. With the addition of those units initially set aside by the executive branch, or by the president in conjunction

³³⁴ See Appendix II: Data for complete datasets of each reserve type.

³³⁵ The U.S. Fish and Wildlife Service created 371 of these units through administrative means after the 1942 executive order issued by President Roosevelt delegated the power from the presidency to the executive branch agency. Congress and the president formed the remaining three units through combined proclamations and delegations.

with Congress, the total increases to 567 units.³³⁶ Consequently, the presidency directly or indirectly formed 1,736 units of the 2,099 forests, refuges, monuments, parks, and wilderness areas ever formed within the federal public lands system, or approximately 82.7% of these lands.³³⁷ This amounts to an incredible role for the president in the formation of America's public land system. Without the presidency, the federal public land system that we know today would be markedly different.

Understanding the Institution: This Research and the Presidency

The research presented in these pages furthers our understanding of the presidency as an institution by analyzing power shifts within a specific policy arena. Hopefully the insights brought forth by this research inspire future examinations of the presidency through the consideration of its three more unique characteristics: less obvious policy areas, overlooked time periods, and a shifted perspective. First, "less obvious" areas of policy, in regards to the presidency, may in fact contribute to the office in significant ways. As stated in the introduction, presidential research, especially within political science, often examines those areas most obviously associated with the president: national security, international affairs, and national emergencies. Generally, much of the scholarship on the presidency leans first in the direction of foreign policy, and second in the direction of any constitutionally provided powers. While the pursuit of these lines of inquiry is natural, it also encourages scholars to focus less upon domestic policy generally, and therefore many specific policy areas that do not include the president's Constitutional responsibilities. As a result, important policy areas for the

³³⁶ Thirteen wilderness units came from refuge lands formed through U.S. Fish and Wildlife Service actions. The remaining 16 wilderness units derived from lands that include both presidentially-formed national forests and congressionally-designated Bureau of Land Management lands, and thus are categorized as combined presidential-Congressional lands.

³³⁷ All calculations are based upon the author's datasets of national forests, wildlife refuges, monuments, parks, and wilderness units. See related tables in Appendix II: Data for more information.

presidency may go unnoticed. However, with continued efforts to broaden our comprehension of the presidency and domestic policy, like those presented in these pages, a more inclusive understanding of the office will develop.

Second, presidential research often overlooks periods of relative national stability when considering the conditions that enhance or shift power between the presidency and other branches. Examinations of executive authority understandably focus upon volatile time periods, arguing that these create windows of opportunity for important changes within our political institutions, especially for presidential leadership. Seeing the big changes in the big moments, we may lose out on the progressive changes in the smaller moments, those which may take more time but nonetheless form critical patterns from which the presidency derives the same amount, or even more, authority. Less popular or well-known presidents, like Benjamin Harrison or Grover Cleveland, contributed to the development of presidential power in public lands because they chose to implement the powers given to them. They may be simple acts, but over time and throughout presidencies, those acts accumulate; creating significant precedents and sources of authority upon which the office of presidency builds. Therefore it is crucial for scholars to be willing to look into those less obvious time periods, as they may include critical points of development for the executive office.

Third, research could benefit from a shift in perspective when considering the relationship between the presidency and public policy. Scholarship often seeks to explain how the presidency impacts policy in certain ways. Again, this approach makes sense and is also part of the research presented in this dissertation. However, the approach does not explicitly consider the ways in which the powers available to the president in a

particular arena can alter the institution's capacities. The presidency's ability to establish a wide variety of public lands, and the discretion with which presidents could exercise this ability, granted the office a strong source of power within a distinctly domestic policy area traditionally dominated by Congress. The analytical method developed and applied in this research, in which presidential action and Congressional acceptance of that action are traced and analyzed throughout time, offers scholars the chance to identify critical patterns and shifts of authority. These patterns and shifts explain whether or not a particular policy area became an important source of power for the institution. By slightly shifting our perspective, we become more aware of the overall impact of any specific intersection of the presidency and public policy upon the office itself.

Additional Inquiries: Future Research Potential

The data, cases, and analytical approaches within this research inspire a number of additional questions regarding the presidency, public land policy, and political science. One specific area that I would personally hope to pursue, or encourage other to pursue, is if the authorities granted to the presidency in public lands led to more authority for the president in other areas of environmental and domestic policy. Can we determine if the power given to the presidency in the Antiquities Act, for example, helped encourage future delegations of power within the environmental or larger domestic policy realm? Were any of the powers covered in this dissertation used as justification by either the presidency or Congress in future exercises or delegations of power? If so, how did presidents or Congress make the connection? Was it a limited application to very similar areas of policy, or did they extend the argument of unilateral, discretionary power to unrelated areas of policy? By considering if these grants of power to the president

impacted more than public lands, their influence and role in the development of presidential power could be broader and deeper than that discovered in this initial research.

Future research could also use the public land establishment datasets to more deeply delve into the development of our federal lands system. Many questions arise from the review of public land establishment patterns identified in this research. For example, when are we most likely to see presidents implement public land powers during their term? Does presidential issuance of executive orders in public lands correlate with patterns identified within the broader executive order literature? Is there a pattern regarding Congressional challenges to presidential action, or do they only occur when there is enough anger in response to a specific public land designation? How might the patterns identified within this research help us to understand the management of federal public lands today? Considering the fact that no one source yet existed which compiled federal public lands and their establishment methods, the data collected herein provides the opportunity for a number of research inquiries for both academic and governmental purposes.

Shifting more specifically to research on public lands, analyzing the reasoning behind the formation of the different federal public lands could potentially deepen our understanding of American identity. While completing the research for this dissertation, a connection between America's cultural identity and the protection of public lands became clear, especially in the discussions leading up to the passage of the lands' originating authorities. The perceived lack of American culture, especially in comparison to the longstanding histories of European nations, fueled the arguments which called for

the creation of federally-protected public lands. The young nation's uniqueness came from its natural resources and the opportunities provided by them, and thus became interwoven with the newly forming American identity. Tracing the development of this thinking, and seeing what connections exist between it and broader American political thought, could show a deep, underlying intellectual connection between public lands and American identity and culture.

In regards to political science more generally, the further refinement and application of the Congressional acceptance tool could prove very beneficial. While the categories of Congressional acceptance developed through the analysis of public land policy, I sought to make them applicable for any examination of power between the presidency and Congress. Since any consideration of presidential authority involves the power balance between it and at least one other branch, being able to systematically compare shifts and developments across cases is incredibly important. I argue that the categories of delegation, allowance, emulation, and limitation cover the majority of ways in which Congress can act and react in terms of power implementation by the president. However, application of the analytical tool in other instances could determine the need for additional categories, or specification through the creation of subcategories in order to more fully assess different conditions. While the tool should prove useful as it now stands, its application in additional research areas will only help to improve it.

Many more inquiries stemming from this research abound, but these considerations should be enough to keep any interested scholar occupied for some time. It is my hope that the nature and perspective of my inquiry will motivate others to look more closely at the presidency from atypical perspectives. By doing so, presidential

power research will become more complete through the identification of new areas of interest within the subfield.

Concluding Thoughts: The Presidency, Public Lands, and Policy

The research and conclusions within this dissertation are significant to both the academic understanding of America's executive institution and the presidency itself. First, in regards to academic scholarship, this research brings to light an area of policy to which the presidency both significantly contributed and derived an immense amount of power. Based upon a review of the relevant literature, political science scholars have yet to discern the cumulative impact of the presidency in public land policy. The identification and analysis of this stronghold of executive power in domestic policy furthers our understanding of how different policy areas can contribute to the office's development. Since power to control public land is granted to Congress in the Constitution, and is inherently a domestic issue, this research proves the importance of policy areas not traditionally associated with the American presidency. By being open to the possibility of other areas of influence, political science scholars will hopefully pursue similar research inquiries in the future to deepen our knowledge of the presidency's development.

Second, the conclusions presented in this research impact the presidency itself in two major ways. One, executive power in public lands is extraordinarily strong and resilient. Each of the powers originated over a century ago, and Congress removed only one power, the ability to designate national forests, completely from the president's

purview.³³⁸ Despite the relative weakness of the presidency at the time of origination, presidents used their new authorities in consistent and impressive manners. The pattern of executive application solidified these grants and initiatives, as presidents built upon each other's precedents to stretch and expand the powers. Presidential implementation and expansion of the public land authorities could have been reined in, but instead Congress continued to accept, endorse, and in some cases even broaden, executive authority. While Congress did challenge some exercises of executive power, most of these contests resulted in no change, or at most, minimal limitations. The combination of continued presidential use and Congressional acceptance of that use institutionalized and engrained these powers within the executive. This resulted in a solid and powerful source of authority for the presidency within a purely domestic arena that remains intact today.

Two, the resilient and commanding nature of executive power in public lands provides the president the opportunity to argue for future unilateral action in other areas of policy. It would be incredibly difficult for anyone to argue that the presidency has no standing when it comes to authority in public lands. Thus this venerable precedent could provide the legal and argumentative support a president needs when making the case for unilateral action in other areas of policy, especially in the environmental realm. This claim could become even more significant as the management of natural resources on federal lands becomes ever more critical in the coming years. The presidency's dominant role in the establishment of federal public lands supplies a stronghold in domestic policy

³³⁸ The Secretary of the Interior still holds the power to designate national forests in the eastern portion of the country, as provided by the Weeks Act of 1911. Consequently, the executive branch retains some power in forest establishment through to present day.

which could justify the future overall expansion of presidential power in the domestic realm.

The findings and conclusions presented here complement and enhance our understanding of the presidency and the power its officeholders wield every day. By identifying and analyzing the broad patterns of presidential implementation and Congressional acceptance of executive authority, this research shows the significant role specific policy areas can play in the development of presidential power. With the continued examination of public policy areas beyond those traditionally associated with the presidency, research will not only deepen our understanding of the office, but aid those who hold it.

APPENDIX I: ADDITIONAL METHODOLOGY

Data Compilation

The detailed tracing of the development of the five categories of American public lands required an inventory of every unit and their particular establishment mechanism. Each list includes every forest, refuge, monument, park, and wilderness area ever created, including those not currently classified as such.³³⁹ The public land agencies, unfortunately, do not have establishment information readily available in most cases. Therefore, the datasets provided within this research represent the first comprehensive effort to collect establishment methods across the five classifications. The following overview describes the processes by, and the sources from, which the datasets formed.

National Forests

For the national forests, the majority of the data came from a Forest Service report entitled *Establishment and Modification of National Forest Boundaries and National Grasslands, A Chronological Record 1891-2012*.³⁴⁰ The publication lists in detail every creation and alteration made to lands existing within the national forest system, and thus proved an invaluable resource for my data collection. Since the list consists of every change to each individual forest and grassland, I manually reviewed the document and culled every forest ever established from 1891 to 2012. In order to complete the list for the remaining years, I consulted the Forest Service's annual report, *Land Areas of the National Forest System as of September 2015*, and determined that no new forested areas

³³⁹ It is important to note the possibility of unintended omissions, but the lists are complete to the author's best knowledge.

³⁴⁰ *Establishment and Modification of National Forest Boundaries and National Grasslands A Chronological Record 1891-2012*, Lands and Realty Management Staff, U.S. Forest Service, (Washington D.C.: USDA, 2012).

had been established based upon the total number of forests remaining the same at 154 between 2012 and 2015.³⁴¹

I included two additional tables for national forests due to special considerations. First, the Forest Service establishment record lists forests that came from combined lands of already established forest reservations as newly established. However, since they did not include newly withdrawn lands, I did not classify them as new forests. Consequently I compiled a separate list of forests that derived from sections of previously reserved forested land in Table II: National Forests (Combined Lands from Previously Established Forests). Second, the Forest Service report also categorized a forest as newly established when it acquired a new name, even though the borders remained the same. As a result, Table III: National Forests: Name Alterations is included to mark those name changes.

National Wildlife Refuges

For the national wildlife refuges, the dataset began with a basic list of current wildlife refuges by date and location, provided to me by the U.S. Fish and Wildlife Service. This data allowed me to assess the current state of the system, and grasp a basic understanding of its development. However, the listing lacked establishment method and refuges no longer in existence; two critical aspects needed for my research. Fortunately, the U.S. Fish and Wildlife Service's Realty Office began a project a few years ago that sought to collect information on every refuge ever in existence. Thus I used this incomplete source as the basis for my own dataset. From there, I conducted research at the U.S. Fish and Wildlife Service's Historian Office and Archives in Shepardstown, West Virginia. Two U.S. Biological Survey documents, (the Biological Survey is the

³⁴¹ *Land Areas of the National Forest System as of September 30, 2015*, U.S. Forest Service, (Washington, D.C.: USDA Forest Service, 2015).

precursor to the Fish and Wildlife Service) proved incredibly helpful in building my refuge dataset, one which listed the first set of refuges created between 1903 and 1935, and the other which recorded discontinued refuges between 1903 and 1975.³⁴² These four sources: the list of current refuges, the realty office's partial list, the earliest refuges list, and the discontinued list allowed me to assemble as comprehensive of a catalog as possible of every refuge ever created.

With the comprehensive catalog of refuges complete, I determined each individual refuge's establishment method from a variety of sources. Most of my establishment authorities came from individual refuge plans available through the U.S. Fish and Wildlife Service's website. The Wildlife Refuge System Improvement Act of 1997 required each refuge to collect data and submit a plan to promote conservation and adhere to the refuge's mission. As a part of this effort, conservation plans usually included a section on the refuge's development, and the authorities which originally established the refuge, so that conservation goals reflected the original purpose of the wildlife refuge. If a refuge did not have a conservation plan available, I used information provided on the official refuges' websites maintained by the U.S. Fish and Wildlife Service. I also cross-referenced establishment methods with generalized documents on the wildlife refuges, such as the *Migratory Bird Conservation Commission's Annual Report*, which includes information on those refuges funded by the Migratory Bird Conservation Program and the Federal Duck Stamp Act.³⁴³

³⁴² *Bird Refuges and Big-Game Preserves Administered by the Bureau of Biological Survey*. Divisions of Game Management and Migratory Waterfowl, U.S. Department of Agriculture, Bureau of Biological Survey, (Washington, D.C.: August 1935) and Philip A. Dumont and Henry W. Thomas, *Modification of National Wildlife Refuges*, U.S. Department of the Interior, (U.S. Fish and Wildlife Service, December 1975).

³⁴³ *2014 Annual Report Migratory Bird Conservation Commission*, (Falls Church VA: U.S. Fish and Wildlife Service, 2014).

In order to check the accuracy of the establishment methods, I consulted sources for each method type. For those wildlife refuges created by executive order, I cross-referenced these with collections of executive orders, entitled *Presidential Executive Orders Numbered 1-8030, 1862-1938, Volumes I and II* and the National Archives' *Executive Order Disposition Tables Index 1937-2016*.³⁴⁴ I also consulted the relevant laws for those formed by Congressional statute, and secretary's orders from the Secretary of the Interior for those formed by agency directive, whenever possible. From this work, I categorized each national wildlife refuge within one of three establishment methods: executive order, public law, or administrative tool.

National Monuments

For the list of national monuments I relied on National Park Service and Bureau of Land Management agency documents. The National Park Service's Archaeology Program provides a complete chronological list of national monuments on its website, under the *Maps, Facts, and Figures* section. This list includes changes made to the monuments over time. The program's *Frequently Asked Questions, Antiquities Act* document records the national monuments created by Congress and the designation alterations made to monuments for cross-referencing purposes.³⁴⁵ I also consulted the Bureau of Land Management's website regarding the national monuments under their jurisdiction to ensure all national monuments appear in my dataset. For the most recent national monuments formed during the Obama administration, I consulted official presidential documents. The White House catalogs all executive orders, presidential

³⁴⁴ *Executive Orders Disposition Tables Index*, National Archives and Records Administration, (Washington, D.C. 2016), Available: <http://www.archives.gov/federal-register/executive-orders/disposition.html> and *Presidential Executive Orders Numbered 1-8030, 1862-1938, Volumes I and II*, Ed. Clifford L. Lord, (New York: Hastings House, 1944).

³⁴⁵ *Frequently Asked Questions, Antiquities Act*, National Park Service Archaeology Program, (Washington, D.C.: U.S. National Park Service, 2006).

proclamations, and presidential memoranda under the White House website's *Presidential Actions* section. I also cross-referenced my list with press releases for individual monuments to ensure accuracy, which are also available online through the White House.

National Parks

The catalog of national parks came directly from National Park Service documents. In order to make the dataset tracking the national monuments that became national parks, I cross-referenced the official NPS listing of national parks with the national monument directory I had already compiled based on the data described above.³⁴⁶ I then compared this list with the National Park Service's *Frequently Asked Questions* document in order to make sure I did not miss any monument to park transitions from non-presidential monuments.³⁴⁷

National Wilderness Areas

The dataset of national wilderness areas developed from information collected by the Arthur Carhart National Wilderness Training Center, the Aldo Leopold Wilderness Research Institute, and the Wilderness Institute of the University of Montana. The Carhart and Leopold institutes serve as the wilderness training and research centers for the federal government. The University of Montana serves as the collection arm for data and research on wilderness, made available to the public through the website, Wilderness.net. I began my data collection by generating a list of all current wilderness

³⁴⁶ *National Park System Areas Listed in Chronological Order of Date Authorized Under DOI*. Washington, D.C.: U.S. National Park Service, 2005 and *Units and Related Areas in the National Park System*. Washington, D.C.: U.S. National Park Service, 2015.

³⁴⁷ One Congressionally-created national monument, Badlands National Monument, became a national park in 1978. The statute required the president to designate the lands as a national monument, but since it originated from public law, it is not included in the National Monuments to National Parks analysis. Badlands National Park is the only example of a Congressionally-formed national monument to become a national park.

areas, their acreage, and the executive branch agency responsible for their management through the *Wilderness Data Search*. From there, I produced a list of wilderness areas based upon legislated acreage, as I wanted to determine the amount of land preserved in each wilderness' originating authority. I chose to do so in order to make the acreage amounts comparable to other acreage amounts used in my research, and to ensure that I included all wilderness areas ever created by manually reviewing every piece of authorizing legislation. Once I did so, I compared, combined, and contracted the list to wilderness areas by year, managing agency, and legislated acreage.³⁴⁸

From there, I used the information provided under the website's *Agencies* section, which catalogs the administering units for each wilderness area, to determine from which unit each of the wilderness areas originally derived. When Congress designates a wilderness area, the law pulls the land from other, already preserved federal lands. Consequently, wilderness areas reside within national forests, national wildlife refuges, national monuments, and national parks, which now serve as their administrative units. By tracing these administrative units, I traced the originating authority of the land for each of the wilderness areas. Once I did so, I compared these units to my datasets on forests, wildlife refuges, monuments, and parks, in order to determine whether they derived from presidential, Congressional, or executive lands, or some combination thereof. From this comparison, I assigned each wilderness area its respective originating authority.

³⁴⁸ "Contracted" is included as some wilderness areas appeared in the generated lists due to the fact that they exist in more than one state. For simplicity, I removed these repetitive references.

A Note on Acreage

Finally, I included acreage numbers for national monuments, national parks, and national wilderness areas. I did this in order to show the expansion of power under the Antiquities Act for the national monuments and to provide comparisons between the lands designated originally by the presidency for national parks and wilderness areas and those designated by Congress or executive branch agencies. I attempted to include acreage for national forests and wildlife refuges just for the sake of uniformity, but unfortunately original acreage numbers are not consistently included in the originating orders, proclamations, and laws for these entities. Fortunately, the Forest Service does track cumulative data for the national forests, which combined with secondary sources, provided the acreage totals for the chapter.

APPENDIX II: DATA TABLES

Table I: National Forests (Newly Withdrawn Land)

Presidential Administration	Forest Name	Date Established	State	Establishment Method
Harrison	Yellowstone	3/30/1891	Wyoming	Proclamation
	White River	10/16/1891	Colorado	Proclamation
	Pecos River	1/11/1892	New Mexico	Proclamation
	Pikes Peak	2/11/1892	Colorado	Proclamation
	Bull Run	6/17/1892	Oregon	Proclamation
	Plum Creek	6/23/1892	Colorado	Proclamation
	South Platte	12/9/1892	Colorado	Proclamation
	San Gabriel	12/20/1892	California	Proclamation
	Afognak	12/24/1892	Alaska	Proclamation
	Battlement Mesa	12/24/1892	Colorado	Proclamation
	Sierra	2/14/1893	California	Proclamation
	Pacific	2/20/1893	Washington	Proclamation
	Grand Canyon	2/20/1893	Arizona	Proclamation
	Trabuco Canon	2/25/1893	California	Proclamation
	San Bernardino	2/25/1893	California	Proclamation
Cleveland	Cascade Range	9/28/1893	Oregon	Proclamation
	Ashland	9/28/1893	Oregon	Proclamation
	San Jacinto	2/22/1897	California	Proclamation
	Uintah	2/22/1897	Utah	Proclamation
	Mount Rainier	2/22/1897	Washington	Proclamation
	Stanislaus	2/22/1897	California	Proclamation
	Bitter Root	2/22/1897	Idaho/Montana	Proclamation
	Olympic	2/22/1897	Washington	Proclamation
	Black Hills	2/22/1897	South Dakota	Proclamation
	Priest River	2/22/1897	Idaho/ Washington	Proclamation
	Washington	2/22/1897	Washington	Proclamation
	Teton	2/22/1897	Wyoming	Proclamation
	Lewis and Clarke	2/22/1897	Montana	Proclamation
	Big Horn	2/22/1897	Wyoming	Proclamation
	Flathead	2/22/1897	Montana	Proclamation
McKinley	Pine Mountain	3/2/1898	California	Proclamation

	Zaca Lake	3/2/1898	California	Proclamation
	Prescott	5/10/1898	Arizona	Proclamation
	San Francisco Mountains	8/17/1898	Arizona	Proclamation
	Black Mesa	8/17/1898	Arizona	Proclamation
	Fish Lake	2/10/1899	Utah	Proclamation
	Gallatin	2/10/1899	Montana	Proclamation
	Gila River	3/2/1899	New Mexico	Proclamation
	Lake Tahoe	4/13/1899	California	Proclamation
	Santa Ynez	10/2/1899	California	Proclamation
	Crow Creek	10/10/1900	Wyoming	Proclamation
	Wichita	7/4/1901	Oklahoma	Proclamation
	Payson	8/3/1901	Utah	Proclamation

T. Roosevelt	San Isabel	4/11/1902	Colorado	Proclamation
	Santa Rita	4/11/1902	Arizona	Proclamation
	Niobrara	4/16/1902	Nebraska	Proclamation
	Dismal River	4/16/1902	Nebraska	Proclamation
	Medicine Bow	5/22/1902	Wyoming	Proclamation
	Santa Catalina	7/2/1902	Arizona	Proclamation
	Mount Graham	7/22/1902	Arizona	Proclamation
	Lincoln	7/26/1902	New Mexico	Proclamation
	Chiricahua	7/30/1902	Arizona	Proclamation
	Little Belt Mountains	8/16/1902	Montana	Proclamation
	Madison	8/16/1902	Montana	Proclamation
	Alexander Archipelago	8/20/1902	Alaska	Proclamation
	Absaroka	9/4/1902	Montana	Proclamation
	Luquillo	1/17/1903	Puerto Rico	Proclamation
	Logan	5/29/1903	Utah	Proclamation
	Manti	5/29/1903	Utah	Proclamation
	Pocatello	9/5/1903	Idaho	Proclamation
	Aquarius	10/24/1903	Utah	Proclamation
	Highwood Mountains	12/12/1903	Montana	Proclamation
	Baker City	2/5/1904	Oregon	Proclamation
	Cave Hills	3/5/1904	South Dakota	Proclamation
	Slim Buttes	3/5/1904	South Dakota	Proclamation
	Grantsville	5/7/1904	Utah	Proclamation
	Salt Lake	5/26/1904	Utah	Proclamation
	Warner Mountains	11/29/1904	California	Proclamation
	Modoc	11/29/1904	California	Proclamation

Pinal Mountains	3/20/1905	Arizona	Proclamation
Plumas	3/27/1905	California	Proclamation
Trinity	4/26/1905	California	Proclamation
Klamath	5/6/1905	California	Proclamation
Wallowa	5/6/1905	Oregon	Proclamation
Wenaha	5/12/1905	Oregon/ Washington	Proclamation
Leadville	5/12/1905	Colorado	Proclamation
Sevier	5/12/1905	Utah	Proclamation
Chesnimnus	5/12/1905	Oregon	Proclamation
Elkhorn	5/12/1905	Montana	Proclamation
Gunnison	5/12/1905	Colorado	Proclamation
Henry's Lake	5/23/1905	Idaho	Proclamation
Weiser	5/25/1905	Idaho	Proclamation
Sawtooth	5/29/1905	Idaho	Proclamation
Lassen Peak	6/2/1905	California	Proclamation
Maury Mountain	6/2/1905	Oregon	Proclamation
Payette	6/3/1905	Idaho	Proclamation
San Juan	6/3/1905	Colorado	Proclamation
Park Range	6/12/1905	Colorado	Proclamation
Wet Mountains	6/12/1905	Colorado	Proclamation
Cassia	6/12/1905	Idaho	Proclamation
Cochetopah	6/13/1905	Colorado	Proclamation
Montezuma	6/13/1905	Colorado	Proclamation
Uncompahgre	6/14/1905	Colorado	Proclamation
Diamond Mountain	7/14/1905	California	Proclamation
Short Pine	7/22/1905	South Dakota	Proclamation
Garden City	7/25/1905	Kansas	Proclamation
Holy Cross	8/25/1905	Colorado	Proclamation
Dixie	9/25/1905	Utah	Proclamation
Big Belt	10/3/1905	Montana	Proclamation
Shasta	10/3/1905	California	Proclamation
Tonto	10/3/1905	Arizona	Proclamation
Hell Gate	10/3/1905	Montana	Proclamation
Portales	10/3/1905	New Mexico	Proclamation
Jemez	10/12/1905	New Mexico	Proclamation
Yuba	11/11/1905	California	Proclamation
Beaver	1/24/1906	Utah	Proclamation
La Sal	1/25/1906	Colorado/Utah	Proclamation
Fruita	2/24/1906	Colorado	Proclamation

North Platte	3/10/1906	Nebraska	Proclamation
Blue Mountains	3/15/1906	Oregon	Proclamation
Helena	4/12/1906	Montana	Proclamation
Vernon	4/24/1906	Utah	Proclamation
Ruby	5/3/1906	Nevada	Proclamation
Mountains			
Fillmore	5/19/1906	Utah	Proclamation
Bear River*	5/28/1906	Utah	Proclamation
San Louis	6/25/1906	California	Proclamation
Obispo			
Monterey	6/25/1906	California	Proclamation
Pinnacles	7/18/1906	California	Proclamation
Heppner	7/18/1906	Oregon	Proclamation
Crazy	8/10/1906	Montana	Proclamation
Mountains			
Kootenai	8/13/1906	Montana	Proclamation
Wasatch	8/16/1906	Utah	Proclamation
Goose Lake	8/21/1906	Oregon	Proclamation
Fremont	9/17/1906	Oregon	Proclamation
Lolo	9/20/1906	Montana	Proclamation
Long Pine	9/24/1906	Montana	Proclamation
Siskiyou	10/5/1906	Oregon	Proclamation
Mount Taylor	10/5/1906	New Mexico	Proclamation
Sierra Madre	11/5/1906	Wyoming	Proclamation
Gallinas	11/5/1906	New Mexico	Proclamation
Magdalena	11/5/1906	New Mexico	Proclamation
Ekalaka	11/5/1906	Montana	Proclamation
Snowy	11/5/1906	Montana	Proclamation
Mountains			
Raft River	11/5/1906	Utah/Idaho	Proclamation
Lemhi	11/5/1906	Idaho	Proclamation
Peloncillo	11/5/1906	New Mexico	Proclamation
San Mateo	11/5/1906	New Mexico	Proclamation
Salmon River	11/5/1906	Idaho	Proclamation
Baboquivari	11/5/1906	Arizona	Proclamation
Independence	11/5/1906	Nevada	Proclamation
Charleston	11/5/1906	Nevada	Proclamation
Big Hole	11/5/1906	Montana	Proclamation
Huachuca	11/6/1906	Arizona	Proclamation
Coeur d'Alane	11/6/1906	Idaho	Proclamation
Manzano	11/6/1906	New Mexico	Proclamation
Pryor	11/6/1906	Montana	Proclamation
Mountains			
Missoula	11/6/1906	Montana	Proclamation

Taos	11/7/1906	New Mexico	Proclamation
Tumacacori	11/7/1906	Arizona	Proclamation
Caribou	1/15/1907	Idaho/Wyoming	Proclamation
Ouray	2/2/1907	Colorado	Proclamation
Monticello	2/6/1907	Utah	Proclamation
Stony Creek	2/6/1907	California	Proclamation
Big Burros	2/6/1907	New Mexico	Proclamation
Glenwood	2/6/1907	Utah	Proclamation
Toiyabe	3/1/1907	Nevada	Proclamation
Bear Lodge	3/1/1907	Wyoming	Proclamation
Colville	3/1/1907	Washington	Proclamation
Las Animas	3/1/1907	Colorado/New Mexico	Proclamation
Little Rockies	3/2/1907	Montana	Proclamation
Port Neuf	3/2/1907	Idaho	Proclamation
Palouse	3/2/1907	Idaho	Proclamation
Cabinet	3/2/1907	Idaho/Montana	Proclamation
Rainier	3/2/1907	Washington	Proclamation
Coquille	3/2/1907	Oregon	Proclamation
Umpqua	3/2/1907	Oregon	Proclamation
Otter	3/2/1907	Montana	Proclamation
Tillamook	3/2/1907	Oregon	Proclamation
Toquima	4/15/1907	Nevada	Proclamation
Monitor	4/15/1907	Nevada	Proclamation
Guadalupe	4/19/1907	New Mexico	Proclamation
Sacramento*	4/24/1907	New Mexico	Proclamation
Inyo	5/25/1907	California	Proclamation
Dragoon	5/25/1907	Arizona	Proclamation
Chugach	7/23/1907	Alaska	Proclamation
Tongass	9/10/1907	Alaska	Proclamation
San Benito	10/26/1907	California	Proclamation
Vegas	12/12/1907	Nevada	Proclamation
Arkansas	12/18/1907	Arkansas/Oregon	Proclamation
Verde	12/30/1907	Arizona	Proclamation
Ozark	3/6/1908	Arkansas	Proclamation
Minnesota	5/23/1908	Minnesota	Public Law
Datil*	6/18/1908	New Mexico	Proclamation
Sitgreaves	7/1/1908	Arizona	Executive Order
Apache	7/1/1908	Arizona	Executive Order
Ocala	11/24/1908	Florida	Proclamation
Dakota	11/24/1908	North Dakota	Proclamation

	Chocta-whatchee	11/27/1908	Florida	Proclamation
	Calaveras Bigtree	2/8/1909	California	Public Law
	Marquette	2/10/1909	Michigan	Proclamation
	Nevada	2/10/1909	Nevada	Proclamation
	Michigan	2/11/1909	Michigan	Proclamation
	Superior	2/13/1909	Minnesota	Proclamation
	Zuni	3/2/1909	Arizona/ New Mexico	Proclamation
Taft	Harney*	5/16/1911	South Dakota	Proclamation
Wilson	Pisgah	10/17/1916	Colorado	Proclamation
	Alabama	1/15/1918	Alabama	Proclamation
	Shenandoah	5/16/1918	Virginia/ West Virginia	Proclamation
	White Mountain	5/16/1918	Maine/ New Hampshire	Proclamation
	Natural Bridge	5/16/1918	Virginia	Proclamation
	Boone	1/16/1920	North Carolina	Proclamation
	Nantahala	1/29/1920	Georgia/ North Carolina/ South Carolina	Proclamation
	Monongahela	4/28/1920	West Virginia	Proclamation
	Cherokee	6/14/1920	Tennessee	Proclamation
	Unaka	7/24/1920	North Carolina/ Tennessee/ Virginia	Proclamation
Coolidge	Allegheny	9/24/1923	Pennsylvania	Proclamation
	Benning**	10/3/1924	Georgia	Executive Order
	McClellan**	12/22/1924	Alabama	Executive Order
	Jackson**	12/22/1924	South Carolina	Executive Order
	Pine Plains**	4/10/1925	New York	Executive Order
	Tobyhanna**	4/10/1925	Pennsylvania	Executive Order
	Upton**	4/10/1925	New York	Executive Order
	Lee**	4/10/1925	Virginia	Executive Order

	Eustis**	4/10/1925	Virginia	Executive Order
	Humphreys**	4/10/1925	Virginia	Executive Order
	Dix**	4/10/1925	New Jersey	Executive Order
	Meade**	4/10/1925	Maryland	Executive Order
	Savanna**	6/5/1925	Illinois	Executive Order
	Knox**	6/5/1925	Kentucky	Executive Order
Hoover	Hiawatha	1/16/1931	Michigan	Proclamation
	Ottawa	1/27/1931	Michigan	Proclamation
	Osceola	7/10/1931	Florida	Proclamation
	Green Mountain	4/25/1932	Vermont	Proclamation
	Nicolet	3/2/1933	Wisconsin	Proclamation
F. Roosevelt	Apalachicola	5/13/1936	Florida	Proclamation
	Kisatchie	6/3/1936	Louisiana	Proclamation
	Bienville	6/15/1936	Mississippi	Proclamation
	Holy Springs	6/15/1936	Mississippi	Proclamation
	DeSoto	6/17/1936	Mississippi	Proclamation
	Francis Marion	7/10/1936	South Carolina	Proclamation
	Sumter	7/13/1936	South Carolina	Proclamation
	Conecuh	7/17/1936	Alabama	Proclamation
	Talladega	7/17/1936	Alabama	Proclamation
	Homochitto	7/20/1936	Mississippi	Proclamation
	Croatan	7/29/1936	North Carolina	Proclamation
	Angelina	10/13/1936	Texas	Proclamation
	Davy Crockett	10/13/1936	Texas	Proclamation
	Sabine	10/13/1936	Texas	Proclamation
	Sam Houston	10/13/1936	Texas	Proclamation
	Cumberland	2/23/1937	Kentucky	Proclamation
	Manistee	10/25/1938	Michigan	Proclamation
	Shawnee	9/6/1939	Illinois	Proclamation
	Mark Twain	9/11/1939	Missouri	Proclamation
	Clark	9/11/1939	Missouri	Proclamation
	Mesilla	4/6/1944	New Mexico/ Texas	Public Land Order

Truman	Hoosier	9/4/1951	Indiana	Secretary's Administrative Order
	Wayne	9/4/1951	Ohio	Secretary's Administrative Order
Eisenhower	Oconee	11/27/1959	Georgia	Proclamation
	Tombigbee	11/27/1959	Mississippi	Proclamation
	Tuskegee	11/27/1959	Alabama	Proclamation
	St. Francis	11/8/1960	Arkansas	Proclamation
	Delta	1/12/1961	Mississippi	Secretary's Administrative Order
	Uwharrie	1/12/1961	North Carolina	Secretary's Administrative Order

Notes: This table includes all national forests that originated from previously unreserved forested land. For more detailed information on the compilation of this table, please see Appendix I: Additional Methodology.

*Forests include portion of transferred land from other established national forests in addition to newly withdrawn lands at time of initial establishment.

**Forests established from previous military reservation lands.

Sources: *Establishment and Modification of National Forest Boundaries and National Grasslands A Chronological Record 1891-2012*, Lands and Realty Management Staff, U.S. Forest Service, (Washington D.C.: USDA, 2012) and *Land Areas of the National Forest System as of September 30, 2015*, Lands Staff, U.S. Forest Service, (Washington, D.C.: USDA Forest Service, 2015).

Table II: National Forests (Combined Lands from Previously Established National Forests)

Presidential Administration	Forest Name	Date Established	State	Establishment Method	Previously Established National Forests
T. Roosevelt	Santa Barbara	12/22/1903	California	Proclamation	Pine Mountain/ Zaca Lake/ Santa Ynez
	Pikes Peak	5/12/1905	Colorado	Proclamation	Plum Creek/ South Platte
	Imnaha	3/1/1907	Oregon	Proclamation	Wallowa/ Chesnimus
	Cache	5/26/1908	Idaho/ Utah	Executive Order	Bear River
	Whitman	6/13/1908	Oregon	Executive Order	Blue Mountains
	Malheur	6/13/1908	Oregon	Executive Order	Blue Mountains
	Umatilla	6/13/1908	Oregon	Executive Order	Heppner/ Blue Mountains
	Deschutes	6/13/1908	Oregon	Executive Order	Blue Mountains
	Columbia	6/18/1908	Washington	Executive Order	Rainier and Washington
	Chelan	6/18/1908	Washington	Executive Order	Washington
	Snoqualmie	6/18/1908	Washington	Executive Order	Washington
	Wenatchee	6/18/1908	Washington	Executive Order	Washington
	Nebo	6/18/1908	Utah	Executive Order	Fillmore and Payson
	Blackfeet	6/25/1908	Montana	Executive Order	Lewis and Clark
	Hayden	6/25/1908	Colorado/W yoming	Executive Order	Sierra Madre and Park Range
	Routt	6/25/1908	Colorado	Executive Order	Park Range
	Challis	6/25/1908	Idaho	Executive Order	Salmon/ Sawtooth

Salmon	6/26/1908	Idaho	Executive Order	Salmon River/ Bitter Root/ Lemhi
Clearwater	6/26/1908	Idaho	Executive Order	Couer D'Alene/ Bitter Root
Pend d'Oreille	6/26/1908	Idaho	Executive Order	Kootenai/ Cabinet/ Couer d'Alene
Kanisku	6/26/1908	Idaho/Wash ington	Executive Order	Priest River
Angeles	6/26/1908	California	Executive Order	San Bernadino/ Santa Barbara/ San Gabriel
Carson	6/26/1908	New Mexico	Executive Order	Jemez/ Taos
Sundance	6/26/1908	Wyoming	Executive Order	Black Hills/ Bear Lodge
Nezperce	6/26/1908	Idaho	Executive Order	Weiser/ Bitterroot
Idaho	6/26/1908	Idaho	Executive Order	Payette
Boise	6/26/1908	Idaho	Executive Order	Sawtooth
Siuslaw	6/30/1908	Oregon	Executive Order	Tillamook/ Umpqua
Cheyenne	6/30/1908	Wyoming	Executive Order	Crow Creek/ Medicine Bow
Oregon	6/30/1908	Oregon	Executive Order	Bull Run/ Cascade
Crater	6/30/1908	California/ Oregon	Executive Order	Cascade/ Siskiyou/ Ashland
Beartooth	6/30/1908	Montana	Executive Order	Pryor Mountains/ Yellowstone
Targhee	7/1/1908	Idaho/Wyo ming	Executive Order	Henry's Lake/ Yellowstone
Wyoming	7/1/1908	Wyoming	Executive Order	Yellowstone
Bonneville	7/1/1908	Wyoming	Executive Order	Yellowstone
Beaverhead	7/1/1908	Montana	Executive Order	Bitterroot/Big Hole/Hellgate

Deerlodge	7/1/1908	Montana	Executive Order	Helena/ Hell Gate/Big Hole
Ashley	7/1/1908	Utah/ Wyoming	Executive Order	Uinta
Rio Grande	7/1/1908	Colorado	Executive Order	San Juan/ Cochetopah
Arapaho	7/1/1908	Colorado	Executive Order	Medicine Bow/ Pike's Peak/ Leadville
Shoshone	7/1/1908	Wyoming	Executive Order	Yellowstone
Crook	7/1/1908	Arizona	Proclamation	Tonto/ Mt. Graham
Coconino	7/2/1908	Arizona	Proclamation	San Francisco Mtns./ Black Mesa/Grand Canyon
Mono	7/2/1908	California/Nevada	Executive Order	Inyo/ Tahoe/ Stanislaus/ Sierra
Sequoia	7/2/1908	California	Executive Order	Sierra
California	7/2/1908	California	Executive Order	Stony Creek
Coronado	7/2/1908	Arizona	Executive Order	Dragoon/ Santa Catalina/ Santa Rita
Garces	7/2/1908	Arizona	Executive Order	Baboquivari/ Huachuca/ Tumacacori
Cleveland	7/2/1908	California	Executive Order	San Jacinto/ Trabuco Canyon
Minidoka	7/2/1908	Idaho/ Utah	Executive Order	Cassia/ Raft River
Jefferson	7/2/1908	Montana	Executive Order	Little Belt/ Little Rockies/ Highwood Mountain/ Snowy Mountains
Sioux	7/2/1908	South Dakota/ Montana	Executive Order	Ekalaka/ Long Pine/ Short Pine/

					Slim Buttes/ Cave Hills
	Nebraska	7/2/1908	Nebraska	Executive Order	Dismal River/ Niobrara/ North Platte
	Humboldt	7/2/1908	Nevada	Executive Order	Independence/ Ruby Mountains
	Moapa	7/2/1908	Nevada	Executive Order	Charleston/ Vegas
	Alamo	7/2/1908	New Mexico	Executive Order	Guadalupe/ Sacramento
	Kaibab	7/2/1908	Arizona	Executive Order	Grand Canyon
Taft	Sopris	4/26/1909	Colorado	Executive Order	Holy Cross
	Tusayan	6/28/1910	Arizona	Proclamation	Uncompahgre
	Palisade	6/28/1910	Idaho/ Wyoming	Proclamation	Targhee
	Kern	7/1/1910	California	Proclamation	Sequoia
	Eldorado	7/28/1910	California	Proclamation	Tahoe/ Stanislaus
	Florida	4/17/1911	Florida	Proclamation	Ocala/Chocta- whatchee
	Minam	6/6/1911	Oregon	Proclamation	Wallowa
	Selway	6/29/1911	Idaho	Proclamation	Nezperce/ Clearwater
	Durango	6/29/1911	Colorado	Proclamation	San Juan
	St. Joe	6/29/1911	Idaho	Proclamation	Clearwater/ Coeur D'Alene
	Washakie	6/30/1911	Wyoming	Proclamation	Bonneville
	Okanogan	6/30/1911	Washington	Proclamation	Chelan
	Paulina	6/30/1911	Oregon	Proclamation	Fremont/ Cascade/ Umpqua/ Crater
	Santiam	6/30/1911	Oregon	Proclamation	Cascade/ Oregon
	Bridger	6/30/1911	Wyoming	Proclamation	Bonneville
	Ochoco	6/30/1911	Oregon	Proclamation	Malheur/ Deschutes
	Ruby	6/19/1912	Nevada	Proclamation	Humboldt

Wilson	Santa Fe	4/6/1915	New Mexico	Executive Order	Pecos /Jemez
F. Roosevelt	Williamette	4/6/1933	Oregon	Executive Order	Cascade/ Santiam
	Chequa- megon	11/13/1933	Wisconsin	Proclamation	Moquah/ Flambeau units of Nicolet NF
	Jefferson	4/21/1936	Virginia	Proclamation	Unaka/George Washington
	Chatta- hoochee	7/9/1936	Georgia	Proclamation	Cherokee/ Nahntala
	Boise	3/18/1944	Idaho	Public Land Order	Payette
	Payette (newly established)	3/18/1944	Idaho	Public Land Order	Weiser and Idaho
Truman	Six Rivers	6/3/1947	California	Proclamation	Trinity/ Siskiyou/ Klamath
Kennedy	Winema	7/26/1961	Oregon	Proclamation	Rogue River/ Deschutes
Nixon	Samuel R. McKelvie	10/15/1971	Nebraska	Public Law	Nebraska
Reagan	Finger Lakes	10/1/1985	New York	Secretary's Administrative Order	Green Mountain

Notes: This table includes all national forests formed out of already withdrawn and reserved forested lands in other previously established national forests. For more detailed information on the compilation of this table, please see Appendix I: Additional Methodology.

Sources: *Establishment and Modification of National Forest Boundaries and National Grasslands A Chronological Record 1891-2012*, Lands and Realty Management Staff, U.S. Forest Service, (Washington D.C.: USDA, 2012) and *Land Areas of the National Forest System as of September 30, 2015*, Lands Staff, U.S. Forest Service, (Washington, D.C.: USDA Forest Service, 2015).

Table III: National Forests: Name Alterations

Altered National Forest Name	Date Renamed	Original National Forest Name	State
Gila	7/21/1905	Gila River	New Mexico
Tahoe	10/3/1905	Lake Tahoe	California/Nevada
Little Belt	10/3/1905	Little Belt Mountains	Montana
Uinta	1/16/1906	Uintah	Utah/Wyoming
Grand Canyon	8/8/1906	Grand Canon	Arizona
Rainier	3/2/1907	Mt. Rainier	Washington
Cascade	3/2/1907	Cascade Range	Oregon
Lewis and Clark	3/2/1907	Lewis and Clarke	Montana
Trabuco Canyon	7/6/1907	Trabuco Canon	California
Kansas	5/15/1908	Garden City	Kansas
Coeur d'Alene	6/26/1908	Coeur D'Aléne	Idaho
San Luis	6/26/1908	San Luis Obispo	California
Bitterroot	7/1/1908	Bitter Root	Idaho/Montana
Pike	7/1/1908	Pike's Peak	Colorado
Cochetopa	7/1/1908	Cochetopah	Colorado
Battlement	7/1/1908	Battlement Mesa	Colorado
Lassen	7/2/1908	Lassen Peak	California
Custer	7/2/1908	Otter	Montana
Pecos	7/2/1908	Pecos River	New Mexico
Fishlake	7/2/1908	Fish Lake	Utah
La Salle	7/2/1908	La Sal	Utah
Powell	7/2/1908	Aquarius	Utah
Bighorn	7/2/1908	Big Horn	Wyoming
La Sal	3/16/1909	La Salle (name changed to original)	Colorado/Utah
Pend Orielle	5/6/1910	Pend d'Orielle	Idaho
Colorado	7/1/1910	Medicine Bow	Colorado
Mt. Baker	1/21/1924	Washington	Washington
Mt. Hood	1/21/1924	Oregon	Oregon
Grand Mesa	3/11/1924	Battlement	Colorado
Ouachita	4/29/1926	Arkansas	Arkansas
Bellevue-Savanna	6/15/1926	Savanna	Illinois
Choctawhatchee	11/10/1927	Florida	Florida

Chippewa	6/22/1928	Minnesota	Minnesota
Huron	7/30/1928	Michigan	Michigan
Cibola	12/3/1931	Manzano	New Mexico
Roosevelt	3/28/1932	Colorado	Colorado
George Washington	6/28/1932	Shenandoah	Virginia/West Virginia
Rogue River	7/9/1932	Crater	California/Oregon
Mendocino	7/12/1932	California	California
Caribbean	6/4/1935	Luqillo	Puerto Rico
Black Warrior	6/19/1936	Alabama	Alabama
Los Padres	12/3/1936	Santa Barbara	California
William B. Bankhead	6/6/1942	Black Warrior	Alabama
Gilford Pinchot	6/15/1949	Columbia	Washington
Manti-La Sal	8/28/1950	Manti	Colorado/Utah
Daniel Boone	4/11/1966	Cumberland	Kentucky

Notes: This table includes the changes made to original national forest names for reference purposes.

Sources: *Establishment and Modification of National Forest Boundaries and National Grasslands A Chronological Record 1891-2012*, Lands and Realty Management Staff, U.S. Forest Service, (Washington D.C.: USDA, 2012) and *Land Areas of the National Forest System as of September 30, 2015*, Lands Staff, U.S. Forest Service, (Washington, D.C.: USDA Forest Service, 2015).

Table IV: National Wildlife Refuges

Presidential Administration	Refuge Name	Date/Year Established	State	Establishment Method
T. Roosevelt	Pelican Island National Wildlife Refuge	3/14/1903	Florida	Executive Order
	Breton National Wildlife Refuge	10/4/1904	Louisiana	Executive Order
	Stump Lake National Wildlife Refuge	3/9/1905	North Dakota	Executive Order
	Wichita Mountains Wildlife Refuge	6/2/1905	Oklahoma	Public Law
	Huron National Wildlife Refuge	10/10/1905	Michigan	Executive Order
	Passage Key National Wildlife Refuge	10/10/1905	Florida	Executive Order
	Siskiwit Islands Bird Refuge	10/10/1905	Michigan	Executive Order
	Indian Key Bird Refuge	2/10/1906	Florida	Executive Order
	Grand Canyon Wildlife Refuge	6/29/1906	Arizona	Public Law
	Tern Islands Bird Refuge	8/8/1907	Louisiana	Executive Order
	Shell Keys National Wildlife Refuge	8/17/1907	Louisiana	Executive Order
	Three Arch Rocks National Wildlife Refuge	10/14/1907	Oregon	Executive Order
	Copalis National Wildlife Refuge	10/23/1907	Washington	Executive Order
	Flattery Rocks National Wildlife Refuge	10/23/1907	Washington	Executive Order
	Quillayute Needles National Wildlife Refuge	10/23/1907	Washington	Executive Order
	East Timbalier Bird Refuge	12/7/1907	Louisiana	Executive Order
	Mosquito Inlet Reservation	2/24/1908	Florida	Executive Order
	Tortugas Keys National Wildlife Refuge	4/6/1904	Florida	Executive Order
	Lower Klamath National Wildlife Refuge	8/8/1908	Oregon	Executive Order
	Lower Klamath National Wildlife Refuge	8/8/1908	California	Executive Order

Key West National Wildlife Refuge	8/8/1908	Florida	Executive Order
Malheur National Wildlife Refuge	8/18/1908	Oregon	Executive Order
Chase Lake National Wildlife Refuge	8/28/1908	North Dakota	Executive Order
Pine Island National Wildlife Refuge	9/15/1908	Florida	Executive Order
Palma Sola Bird Refuge	9/26/1908	Florida	Executive Order
Matlacha Pass National Wildlife Refuge	9/26/1908	Florida	Executive Order
Island Bay National Wildlife Refuge	10/23/1908	Florida	Executive Order
Loch Katrine Reservation	10/26/1908	Wyoming	Executive Order
Hawaiian Islands National Wildlife Refuge	2/3/1909	Hawaii	Executive Order
Belle Fourche Bird Refuge	2/25/1909	South Dakota	Executive Order
Bumping Lake Reservation	2/25/1909	Washington	Executive Order
Carlsbad Bird Refuge	2/25/1909	New Mexico	Executive Order
Cold Springs National Wildlife Refuge	2/25/1909	Oregon	Executive Order
Conconully Bird Refuge	2/25/1909	Washington	Executive Order
Cle Elum Lake Reservation	2/25/1909	Washington	Executive Order
Deer Flat National Wildlife Refuge	2/25/1909	Idaho	Executive Order
Deer Flat National Wildlife Refuge	2/25/1909	Oregon	Executive Order
East Park Reservation	2/25/1909	California	Executive Order
Kachess Lake Reservation	2/25/1909	Washington	Executive Order
Keechelus Lake Reservation	2/25/1909	Washington	Executive Order
Minidoka National Wildlife Refuge	2/25/1909	Idaho	Executive Order
Rio Grande Bird Refuge	2/25/1909	New Mexico	Executive Order
Salt River Bird Refuge	2/25/1909	Arizona	Executive Order
Shoshone National Wildlife Refuge	2/25/1909	Wyoming	Executive Order
Strawberry Valley Bird Refuge	2/25/1909	Utah	Executive Order
Willow Creek Bird Refuge	2/25/1909	Montana	Executive Order

	Pathfinder National Wildlife Refuge	2/25/1909	Wyoming	Executive Order
	Bering Sea (Saint Mathews And Hall Islands) Bird Refuge	2/27/1909	Alaska	Executive Order
	Fire Island National Wildlife Refuge	2/27/1909	Alaska	Executive Order
	Tuxedni Bird Refuge	2/27/1909	Alaska	Executive Order
	Saint Lazaria Bird Refuge	2/27/1909	Alaska	Executive Order
	Yukon Delta National Wildlife Refuge	2/27/1909	Alaska	Executive Order
	Culebra National Wildlife Refuge	2/27/1909	Puerto Rico	Executive Order
	Farallon National Wildlife Refuge	2/27/1909	California	Executive Order
	Pribilof Bird Reservation	2/27/1909	Alaska	Executive Order
	National Bison Range	5/23/1908 and 6/15/1909	Montana	Public Law
	Bogoslof Bird Refuge	3/2/1909	Alaska	Executive Order
Taft	Clear Lake National Wildlife Refuge	4/11/1911	California	Executive Order
	Forrester Island Bird Refuge	1/11/1912	Alaska	Executive Order
	Hazy Islands Bird Refuge	1/11/1912	Alaska	Executive Order
	Fort Niobrara National Wildlife Refuge	1/11/1912	Nebraska	Executive Order
	Green Bay National Wildlife Refuge	2/21/1912	Wisconsin	Executive Order
	Chemisso Island Bird Refuge	12/7/1912	Alaska	Executive Order
	Pishkun Bird Refuge	12/7/1912	Montana	Executive Order
	Desecheo National Wildlife Refuge	12/19/1912	Puerto Rico	Executive Order
	Gravel Island National Wildlife Refuge	1/9/1913	Wisconsin	Executive Order
	Aleutian Islands Bird Refuge	3/3/1913	Alaska	Executive Order
Wilson	Walker's Lake Reservation	4/21/1913	Arkansas	Executive Order
	Petit Bois Island Bird Refuge	5/6/1913	Alabama	Executive Order

	Anaho Island National Wildlife Refuge	9/4/1913	Nevada	Executive Order
	National Elk Refuge	8/10/1912 and 3/10/1914	Wyoming	Public Law
	Smith Island Bird Refuge	6/6/1914	Washington	Executive Order
	Dungeness (Spit) National Wildlife Refuge	1/20/1915	Washington	Executive Order
	Ediz Hook Bird Refuge	1/20/1915	Washington	Executive Order
	Mille Lacs National Wildlife Refuge	5/14/1915	Minnesota	Executive Order
	Big Lake National Wildlife Refuge	8/2/1915	Arkansas	Executive Order
	San Francisco Bay Reservation	8/9/1916	California	Executive Order
	North Platte National Wildlife Refuge	8/21/1916	Nebraska	Executive Order
	Caloosahatchee National Wildlife Refuge	7/1/1920	Puerto Rico	Executive Order
Harding	Nine-Pipe National Wildlife Refuge	6/25/1921	Montana	Executive Order
	Pablo National Wildlife Refuge	6/25/1921	Montana	Executive Order
	Sullys Hill National Game Preserve	12/22/1921	North Dakota	Executive Order
	Flat Creek Bird Refuge	9/29/1922	Wyoming	Executive Order
	Saratoga National Wildlife Refuge	4/9/1923	Wyoming	Executive Order
Coolidge	Blackbeard Island National Wildlife Refuge	2/15/1924	Georgia	Executive Order
	Upper Mississippi River National Wildlife And Fish Refuge	6/7/1924	Minnesota/ Illinois/Iowa/ Wisconsin	Public Law
	Brevard Bird Refuge	10/21/1925	Florida	Executive Order
	Johnston Island National Wildlife Refuge	6/29/1926	Johnston Atoll	Executive Order
	Columbia River Bird Refuge	8/28/1926	Washington	Executive Order
	Alaska Railway Muskrat And Bonver Refuge	2/21/1927	Alaska	Executive Order

	Curry Bird Game And Fish Refuge	2/21/1927	Alaska	Executive Order
	Savannah National Wildlife Refuge	4/6/1927	South Carolina/ Georgia	Executive Order
	Mckay Creek National Wildlife Refuge	6/7/1927	Oregon	Executive Order
	Ma Tanzas Migratory Bird Refuge	8/10/1927	Florida	Executive Order
	Upper Klamath National Wildlife Refuge	4/3/1928	Oregon	Executive Order
	Bear River Migratory Bird Refuge	4/23/1928	Utah	Public Law
	Tule Lake National Wildlife Refuge	10/4/1928	California	Executive Order

Hoover	Nunivak Island Wildlife Refuge	4/15/1929	Alaska	Executive Order
	Fort Keogh Wildlife Refuge	5/18/1929	Montana	Executive Order
	Cedar Keys National Wildlife Refuge	7/16/1929	Florida	Executive Order
	Benton Lake National Wildlife Refuge	11/21/1929	Montana	Executive Order
	Salt Plains National Wildlife Refuge	3/26/1930	Oklahoma	Executive Order
	Wolf Island National Wildlife Refuge	4/3/1930	Georgia	Executive Order
	Sonny Bono Salton Sea National Wildlife Refuge	11/25/1930	California	Executive Order
	Crescent Lake National Wildlife Refuge	3/16/1931	Nebraska	Executive Order
	Fallon National Wildlife Refuge	4/22/1931	Nevada	Executive Order
	St. Mark's National Wildlife Refuge	10/31/1931	Florida	Executive Order
	Cape Romain Migratory Bird Refuge	1931	South Carolina	Administrative
	Charles Sheldon Antelope Refuge	1/26/1931	Nevada	Executive Order
	Locomotive Springs Migratory Bird Refuge	9/29/1931	Utah	Executive Order

	Hutton Lake National Wildlife Refuge	1/28/1932	Wyoming	Executive Order
	Bamforth National Wildlife Refuge	1/29/1932	Wyoming	Executive Order
	Long Lake National Wildlife Refuge	2/25/1932	North Dakota	Executive Order
	Lenore Lake National Wildlife Refuge	3/10/1932	Washington	Executive Order
	Chinsegut Hill Migratory Bird Refuge	4/22/1932	Florida	Administrative
	Semidi Islands Bird Refuge	6/17/1932	Alaska	Executive Order
	Swanquarter National Wildlife Refuge	6/23/1932	North Carolina	Administrative
	Widows Island Migratory Bird Refuge	12/22/1932	Maine	Public Law
	Blackwater National Wildlife Refuge	1/23/1933	Maryland	Administrative
	Boulder Canyon Wildlife Refuge	3/3/1933	Arizona/ Nevada	Executive Order
F. Roosevelt	Killcohook Migratory Bird Refuge	2/3/1934	Delaware/ New Jersey	Executive Order
	Railroad Valley Migratory Bird Refuge	5/2/1934	Nevada	Executive Order
	Storm Lake National Wildlife Refuge	11/26/1934	North Dakota	Executive Order
	Mattamuskeet Migratory Bird Refuge	12/18/1934	North Carolina	Executive Order
	Clearwater National Wildlife Refuge	3/27/1935	North Dakota	Administrative
	Red Rock Lakes National Wildlife Refuge (Originally Red Hooks Lake)	4/22/1935	Montana	Executive Order
	Oregon Islands National Wildlife Refuge (Originally Goat Island)	5/6/1935	Oregon	Executive Order
	Valentine National Wildlife Refuge	8/14/1935	Nebraska	Executive Order
	Medicine Lake National Wildlife Refuge	8/19/1935	Montana	Executive Order

Des Lacs National Wildlife Refuge	8/22/1935	North Dakota	Executive Order
Squaw Creek National Wildlife Refuge	8/23/1935	Missouri	Executive Order
Lacreek National Wildlife Refuge	8/26/1935	South Dakota	Executive Order
Bear Butte National Wildlife Refuge	19350826	South Dakota	Executive Order
Upper Souris National Wildlife Refuge	8/27/1935	North Dakota	Executive Order
Hilton Head National Wildlife Refuge	8/31/1935	South Carolina	Administrative
Arrowwood National Wildlife Refuge	9/4/1935	North Dakota	Executive Order
Sand Lake National Wildlife Refuge	9/4/1935	South Dakota	Executive Order
J. Clark Salyer National Wildlife Refuge (Originally Lower Souris Migratory Waterfowl Refuge)	9/4/1935	North Dakota	Executive Order
Lostwood National Wildlife Refuge	9/4/1935	North Dakota	Executive Order
White River National Wildlife Refuge	9/5/1935	Arkansas	Executive Order
Muleshoe National Wildlife Refuge	10/24/1935	Texas	Executive Order
Rice Lake National Wildlife Refuge	10/31/1935	Minnesota	Executive Order
Delta National Wildlife Refuge	11/19/1935	Louisiana	Executive Order
Waubay National Wildlife Refuge	12/10/1935	South Dakota	Executive Order
Seney National Wildlife Refuge	12/10/1935	Michigan	Executive Order
Lake Alice National Wildlife Refuge	1935	North Dakota	Administrative
Bowdoin National Wildlife Refuge	2/14/1936	Montana	Executive Order
Lake Andes National Wildlife Refuge	2/14/1936	South Dakota	Executive Order

Kellys Slough National Wildlife Refuge	3/19/1936	North Dakota	Executive Order
Desert National Wildlife Range	5/20/1936	Nevada	Executive Order
Winnemucca National Wildlife Refuge	8/19/1936	Nevada	Executive Order
Trempealeau National Wildlife Refuge	8/21/1936	Wisconsin	Executive Order
Long Tail Point National Wildlife Refuge	10/23/1936	Wisconsin	Executive Order
Theodore Roosevelt National Wildlife Refuge	11/14/1936	North Dakota	Executive Order
Yazoo National Wildlife Refuge	12/7/1936	Mississippi	Administrative
Charles M. Russell National Wildlife Refuge (Originally Fort Peck Game Range)	12/11/1936	Montana	Executive Order
Patuxent Research Refuge	12/16/1936	Maryland	Executive Order
Hart Mountain National Antelope Refuge	12/21/1936	Oregon	Executive Order
Chautauqua National Wildlife Refuge	12/23/1936	Illinois	Executive Order
Shinnecock National Wildlife Refuge	1/8/1937	New York	Executive Order
Willapa National Wildlife Refuge	1/12/1937	Washington	Executive Order
Sacramento National Wildlife Refuge	2/27/1937	California	Executive Order
Swan Lake National Wildlife Refuge	2/27/1937	Missouri	Executive Order
Agassiz National Wildlife Refuge (Originally Mud Lake Migratory Wildlife Refuge)	3/23/1937	Minnesota	Executive Order
Okefenokee National Wildlife Refuge	3/30/1937	Florida/ Georgia	Executive Order
Jones Island National Wildlife Refuge	3/30/1937	Washington	Executive Order
Matia National Wildlife Refuge	3/30/1937	Washington	Executive Order
Bombay Hook National Wildlife Refuge	6/22/1937	Delaware	Executive Order

Moosehorn National Wildlife Refuge	7/1/1937	Maine	Executive Order
Turnbull National Wildlife Refuge	7/30/1937	Washington	Executive Order
Apache National Wildlife Refuge	7/27/1937	Arizona	Executive Order
Snake River National Wildlife Refuge	8/17/1937	Idaho	Executive Order
Snake River National Wildlife Refuge	8/17/1937	Oregon	Executive Order
Lake Thibadeau National Wildlife Refuge	9/23/1937	Montana	Executive Order
Camas National Wildlife Refuge	10/8/1937	Idaho	Executive Order
Bitter Lake National Wildlife Refuge	10/8/1937	New Mexico	Executive Order
Lake St. Clair National Wildlife Refuge	11/19/1937	Michigan	Administrative
Sabine National Wildlife Refuge	12/6/1937	Louisiana	Executive Order
Lacassine National Wildlife Refuge	12/30/1937	Louisiana	Executive Order
Aransas National Wildlife Refuge	12/31/1937	Texas	Executive Order
Clouds Lake National Wildlife Refuge	1937	North Dakota	Administrative
Black Coulee National Wildlife Refuge	1/28/1938	Montana	Executive Order
Hewitt Lake National Wildlife Refuge	3/7/1938	Montana	Executive Order
Pea Island National Wildlife Refuge	4/8/1938	North Carolina	Executive Order
Tybee National Wildlife Refuge	5/9/1938	South Carolina	Executive Order
Tamarac National Wildlife Refuge	5/31/1938	Minnesota	Executive Order
Back Bay National Wildlife Refuge	6/6/1938	Virginia	Executive Order
Ruby Lake National Wildlife Refuge	7/2/1938	Nevada	Executive Order
Wheeler National Wildlife Refuge	7/7/1938	Alabama	Executive Order

West Sister Island National Wildlife Refuge	8/2/1938	Ohio	Executive Order
Fort Tyler National Wildlife Refuge	8/2/1938	New York	Executive Order
Lake Isom National Wildlife Refuge	8/12/1938	Tennessee	Executive Order
Cape Meares National Wildlife Refuge	8/19/1938	Oregon	Executive Order
Kentucky Woodlands National Wildlife Refuge	8/30/1938	Kentucky	Executive Order
Montezuma National Wildlife Refuge	9/12/1938	New York	Executive Order
Union Slough National Wildlife Refuge	9/19/1938	Iowa	Executive Order
Great White Heron National Wildlife Refuge	10/27/1938	Florida	Executive Order
Fort De Soto National Wildlife Refuge	11/10/1938	Florida	Administrative
Oen Lake National Wildlife Refuge	1938	North Dakota	Administrative
Tobacco Garden National Wildlife Refuge	1938	North Dakota	Administrative
Piedmont National Wildlife Refuge	1/18/1939	Georgia	Executive Order
Cabeza Prieta National Wildlife Refuge	1/25/1939	Arizona	Executive Order
Kofa National Wildlife Refuge	1/25/1939	Arizona	Executive Order
Wilson National Wildlife Refuge	1/30/1939	Georgia	Administrative
Necedah National Wildlife Refuge	3/14/1939	Wisconsin	Executive Order
Carolina Sandhills National Wildlife Refuge	3/17/1939	South Carolina	Executive Order
Anclote Migratory Bird Refuge	4/5/1939	Florida	Executive Order
Morgan Farm National Wildlife Refuge	4/11/1939	Vermont	Executive Order
Little Pend Oreille National Wildlife Refuge	5/2/1939	Washington	Executive Order

Appert Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Billings Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Bone Hill National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Buffalo Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Camp Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Canfield Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Charles Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Dakota Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Florence Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Half Way Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Hutchinson Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Johnson Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Lake Moraine National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Lake Oliver National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Little Goose National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Little Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Lords Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Lost Lake National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Minnewastena National Wildlife Refuge	5/10/1939	North Dakota	Executive Order
Ardoch National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Brumba National Wildlife	6/12/1939	North Dakota	Executive Order

Refuge

Cottonwood Lake National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Hiddenwood National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Hobart Lake National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Lake George National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Lake Ilo National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Lake Nettie National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Lake Patricia National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
McLean National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Lake Zahl National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Lambs Lake National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Legion Lake National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Maple River National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Pioneer Lake National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Pleasant Lake National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Rock Lake National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Shell Lake National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Sibley Lake National Wildlife Refuge	6/12/1939	North Dakota	Executive Order
Talcot National Wildlife Refuge	6/15/1939	Minnesota	Executive Order
Susquehanna National Wildlife Refuge	8/24/1939	Maryland	Proclamation

Edwin B. Forsythe National Wildlife Refuge (Originally The Brigantine And Barnegat Nwrs)	10/5/1939	New Jersey	Administrative
Bosque Del Apache National Wildlife Refuge	11/22/1939	New Mexico	Executive Order
Cherry Creek National Wildlife Refuge	1939	North Dakota	Administrative
Eagle Creek National Wildlife Refuge	1939	South Dakota	Administrative
Lake Acronage National Wildlife Refuge	1939	South Dakota	Administrative
Quinn Lake National Wildlife Refuge	1939	South Dakota	Administrative
Twin Lakes National Wildlife Refuge	1939	South Dakota	Administrative
Wildfang National Wildlife Refuge	1939	North Dakota	Administrative
Yanktonai National Wildlife Refuge	1939	North Dakota	Administrative
Noxubee National Wildlife Refuge	6/14/1940	Mississippi	Executive Order
Thief Valley National Wildlife Refuge	10/22/1940	Oregon	Executive Order
Painted Woods National Wildlife Refuge	1940	North Dakota	Administrative
Evanston National Wildlife Refuge	1/21/1941	Wyoming	Executive Order
Kit Carson National Wildlife Refuge	1/22/1941	Colorado	Executive Order
San Andres National Wildlife Refuge	1/22/1941	New Mexico	Executive Order
Havasu National Wildlife Refuge	1/22/1941	California/ Arizona	Executive Order
Horicon National Wildlife Refuge	1/24/1941	Wisconsin	Administrative
Prairie Lake National Wildlife Refuge	2/3/1941	North Dakota	Executive Order
Pretty Rock National Wildlife Refuge	2/3/1941	North Dakota	Executive Order
Snyder Lake National Wildlife Refuge	2/3/1941	North Dakota	Executive Order

Springwater National Wildlife Refuge	2/3/1941	North Dakota	Executive Order
Stewart Lake National Wildlife Refuge	2/3/1941	North Dakota	Executive Order
Stoney Slough National Wildlife Refuge	2/3/1941	North Dakota	Executive Order
Sunburst Lake National Wildlife Refuge	2/3/1941	North Dakota	Executive Order
Tomahawk National Wildlife Refuge	2/3/1941	North Dakota	Executive Order
White Lake National Wildlife Refuge	2/3/1941	North Dakota	Executive Order
Wintering River National Wildlife Refuge	2/3/1941	North Dakota	Executive Order
Imperial National Wildlife Refuge	2/14/1941	California/ Arizona	Executive Order
Santee National Wildlife Refuge	5/1/1941	South Carolina	Administrative
Lake Mason National Wildlife Refuge	6/3/1941	Montana	Executive Order
Kodiak National Wildlife Refuge	8/19/1941	Alaska	Executive Order
Reelfoot National Wildlife Refuge	8/28/1941	Kentucky/ Tennessee	Administrative
Istokpoga National Wildlife Refuge	9/1/1941	Florida	Administrative
Creedman Coulee National Wildlife Refuge	10/25/1941	Montana	Executive Order
Kenai National Wildlife Refuge	12/16/1941	Alaska	Executive Order
Parker River National Wildlife Refuge	12/30/1941	Massachusetts	Administrative
Safford National Wildlife Refuge	4/20/1942	Arizona	Executive Order
Lamesteer National Wildlife Refuge	5/19/1942	Montana	Executive Order
Halfbreed Lake National Wildlife Refuge	5/19/1942	Montana	Executive Order
Hailstone National Wildlife Refuge	12/31/1942	Montana	Executive Order
Missisquoi National Wildlife Refuge	2/4/1943	Vermont	Administrative

	Chincoteague National Wildlife Refuge	5/13/1943	Virginia/ Maryland	Administrative
	Santa Ana National Wildlife Refuge	9/1/1943	Texas	Administrative
	Chassahowitzka National Wildlife Refuge	1943	Florida	Administrative
	Mesilla National Wildlife Refuge	4/6/1944	Texas/ New Mexico	Administrative
	Great Meadows National Wildlife Refuge	5/3/1944	Massachusetts	Administrative
	Monomoy National Wildlife Refuge	6/1/1944	Massachusetts	Administrative
	Mingo National Wildlife Refuge	6/7/1944	Missouri	Administrative
	Columbia National Wildlife Refuge	6/13/1944	Washington	Administrative
	Slade National Wildlife Refuge	10/10/1944	North Dakota	Administrative
	Colusa National Wildlife Refuge	12/5/1944	California	Administrative
Truman	Sutter National Wildlife Refuge	5/9/1945	California	Administrative
	Tewaukon National Wildlife Refuge	6/26/1945	North Dakota	Administrative
	J.N. 'Ding' Darling National Wildlife Refuge (Originally Sanibel NWR)	12/1/1945	Florida	Administrative
	Everglades National Wildlife Refuge	12/1/1945	Florida	Administrative
	Tennessee National Wildlife Refuge	12/28/1945	Tennessee	Executive Order
	Tishomingo National Wildlife Refuge	1/24/1946	Oklahoma	Administrative
	Hagerman National Wildlife Refuge	2/9/1946	Texas	Administrative
	Laguna Atascosa National Wildlife Refuge	3/29/1946	Texas	Administrative
	Calhoun National Wildlife Refuge	11/8/1946	Illinois	Administrative
	Flannigan National Wildlife Refuge	11/19/1946	Illinois	Administrative

Henderson National Wildlife Refuge	11/19/1946	Illinois	Administrative
Keithsburg National Wildlife Refuge	11/19/1946	Illinois	Administrative
Louisa National Wildlife Refuge	11/19/1946	Iowa	Administrative
Michigan Islands National Wildlife Refuge	4/10/1947	Michigan	Administrative
Wertheim National Wildlife Refuge	6/17/1947	New York	Administrative
Crab Orchard National Wildlife Refuge	8/5/1947	Illinois	Public Law
Batchtown National Wildlife Refuge	10/6/1947	Illinois	Administrative
Stillwater National Wildlife Refuge	11/26/1948	Nevada	Administrative
Rabb Lake National Wildlife Refuge	12/21/1948	North Dakota	Administrative
Rose Lake National Wildlife Refuge	12/21/1948	North Dakota	Administrative
School Section Lake National Wildlife Refuge	12/21/1948	North Dakota	Administrative
Sheyenne Lake National Wildlife Refuge	12/21/1948	North Dakota	Administrative
Silver Lake National Wildlife Refuge	12/21/1948	North Dakota	Administrative
Willow Lake National Wildlife Refuge	12/21/1948	North Dakota	Administrative
Wood Lake National Wildlife Refuge	12/21/1948	North Dakota	Administrative
Pinellas National Wildlife Refuge	4/1/1951	Florida	Administrative
Arthur R. Marshall Loxahatchee National Wildlife Refuge	6/8/1951	Florida	Administrative
Merced National Wildlife Refuge	7/30/1951	California	Administrative
Monte Vista National Wildlife Refuge	9/3/1952	Colorado	Administrative

Eisenhower	Presquile National Wildlife Refuge	3/11/1953	Virginia	Administrative
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Shiawassee National Wildlife Refuge	10/21/1953	Michigan	Administrative
National Key Deer Refuge	2/1/1954	Florida	Public Law
Kirwin National Wildlife Refuge	6/17/1954	Kansas	Administrative
Martin National Wildlife Refuge	12/20/1954	Maryland/ Virginia	Administrative
Elizabeth Alexandra Morton National Wildlife Refuge	12/27/1954	New York	Administrative
Quivira National Wildlife Refuge	10/8/1955	Kansas	Administrative
Mcnary National Wildlife Refuge	12/29/1955	Washington	Administrative
Audubon National Wildlife Refuge	5/25/1956	North Dakota	Administrative
Holla Bend National Wildlife Refuge	8/30/1957	Arkansas	Administrative
Horn Island National Wildlife Refuge	5/14/1958	Mississippi	Administrative
Iroquois National Wildlife Refuge	5/19/1958	New York	Administrative
Klamath Marsh National Wildlife Refuge	6/12/1958	Oregon	Congress/ Administrative
Troy Meadows National Wildlife Refuge	7/1/1958	New Jersey	Administrative
Catahoula National Wildlife Refuge	10/28/1958	Louisiana	Administrative
Simeonof National Wildlife Refuge	10/30/1958	Alaska	Administrative
Buffalo Lake National Wildlife Refuge	11/6/1958	Texas	Executive Order
Pixley National Wildlife Refuge	11/6/1958	California	Executive Order
War Horse National Wildlife Refuge	11/6/1958	Montana	Executive Order
Desoto National Wildlife Refuge	12/13/1958	Iowa/ Nebraska	Administrative
Great River National Wildlife Refuge	1958	Missouri	Administrative
Middle Mississippi River National Wildlife Refuge	1958	Missouri/ Illinois	Administrative

	Port Louisa National Wildlife Refuge	1958	Iowa/Illinois	Administrative
	Two Rivers National Wildlife Refuge	1958	Missouri	Administrative
	Fish Springs National Wildlife Refuge	3/10/1959	Utah	Administrative
	Erie National Wildlife Refuge	5/22/1959	Pennsylvania	Administrative
	Burford National Wildlife Refuge	2/5/1960	New Mexico	Administrative
	Ouray National Wildlife Refuge	5/25/1960	Utah	Administrative
	Kern National Wildlife Refuge	11/18/1960	California	Administrative
	Great Swamp National Wildlife Refuge	11/3/1960	New Jersey	Public Law
	Modoc National Wildlife Refuge	11/5/1960	California	Administrative
	Arctic National Wildlife Range	12/6/1960	Alaska	Administrative
	Izembek National Wildlife Refuge	12/6/1960	Alaska	Administrative
	San Juan Islands National Wildlife Refuge	12/24/1960	Washington	Administrative
	Mackay Island National Wildlife Refuge	12/30/1960	North Carolina/ Virginia	Administrative
Kennedy	Wapanocca National Wildlife Refuge	1/24/1961	Arkansas	Administrative
	Washita National Wildlife Refuge	4/15/1961	Oklahoma	Administrative
	Ottawa National Wildlife Refuge	7/28/1961	Ohio	Administrative
	Wyandotte National Wildlife Refuge	8/3/1961	Michigan	Public Law
	Moody National Wildlife Refuge	11/9/1961	Texas	Administrative
	Harris Neck National Wildlife Refuge	5/25/1962	Georgia	Administrative
	Davis Island National Wildlife Refuge	6/20/1962	Mississippi	Administrative
	Delevan National Wildlife Refuge	9/12/1962	California	Administrative

	Cross Creeks National Wildlife Refuge	11/9/1962	Tennessee	Administrative
	Eastern Neck National Wildlife Refuge	12/27/1962	Maryland	Administrative
	Anahuac National Wildlife Refuge	2/27/1963	Texas	Administrative
	Alamosa National Wildlife Refuge	7/25/1963	Colorado	Administrative
	Pahranagat National Wildlife Refuge	8/6/1963	Nevada	Administrative
	Prime Hook National Wildlife Refuge	8/21/1963	Delaware	Administrative
	Browns Park National Wildlife Refuge	8/20/1963	Colorado	Administrative
	Merritt Island National Wildlife Refuge	8/28/1963	Florida	Administrative
	Lake Woodruff National Wildlife Refuge	11/18/1963	Florida	Administrative
	Pee Dee National Wildlife Refuge	1963	North Carolina	Administrative
Johnson	Choctaw National Wildlife Refuge	1/27/1964	Alabama	Administrative
	Lee Metcalf National Wildlife Refuge	2/4/1964	Montana	Administrative
	Toppenish National Wildlife Refuge	4/27/1964	Washington	Administrative
	William L. Finley National Wildlife Refuge	4/3/1964	Oregon	Administrative
	Clarence Cannon National Wildlife Refuge	8/10/1964	Missouri	Administrative
	Cedar Island National Wildlife Refuge	8/10/1964	North Carolina	Administrative
	Cibola National Wildlife Refuge	8/21/1964	Arizona/ California	Administrative
	Kootenai National Wildlife Refuge	8/31/1964	Idaho	Administrative
	Eufaula National Wildlife Refuge	9/1/1964	Georgia/ Alabama	Administrative
	Hatchie National Wildlife Refuge	11/16/1964	Tennessee	Administrative

Cedar Point National Wildlife Refuge	12/18/1964	Ohio	Administrative
Ankeny National Wildlife Refuge	1964	Oregon	Administrative
Conboy Lake National Wildlife Refuge	4/14/1965	Washington	Administrative
Grays Lake National Wildlife Refuge	6/17/1965	Idaho	Administrative
Sherburne National Wildlife Refuge	5/18/1965	Minnesota	Administrative
Baskett Slough National Wildlife Refuge	3/25/1965	Oregon	Administrative
Seedskaadee National Wildlife Refuge	11/30/1965	Wyoming	Administrative
Ridgefield National Wildlife Refuge	5/18/1965	Washington	Administrative
Las Vegas National Wildlife Refuge	8/24/1965	New Mexico	Administrative
Maxwell National Wildlife Refuge	4/26/1966	New Mexico	Administrative
Flint Hills National Wildlife Refuge	9/1/1966	Kansas	Administrative
Muscatatuck National Wildlife Refuge	10/6/1966	Indiana	Administrative
Brazoria National Wildlife Refuge	10/17/1966	Texas	Administrative
Rachel Carson National Wildlife Refuge	12/16/1966	Maine	Administrative
San Luis National Wildlife Refuge	2/2/1967	California	Administrative
Arapaho National Wildlife Refuge	9/26/1967	Colorado	Administrative
Ul Bend National Wildlife Refuge	2/7/1967	Montana	Administrative
Target Rock National Wildlife Refuge	12/15/1967	New York	Administrative
St. Vincent National Wildlife Refuge	7/9/1968	Florida	Administrative
Bear Lake National Wildlife Refuge	5/9/1968	Idaho	Administrative
Seatuck National Wildlife Refuge	9/26/1968	New York	Administrative

	San Bernard National Wildlife Refuge	11/7/1968	Texas	Administrative
	Amagansett National Wildlife Refuge	12/16/1968	New York	Administrative
	Oyster Bay National Wildlife Refuge	12/18/1968	New York	Administrative
	Buck Island National Wildlife Refuge	1/8/1969	Virgin Islands	Administrative
	Fisherman Island National Wildlife Refuge	1/17/1969	Virginia	Administrative
Nixon	Elizabeth Hartwell Mason Neck National Wildlife Refuge	2/1/1969	Virginia	Administrative
	Umatilla National Wildlife Refuge	7/3/1969	Oregon/ Washington	Administrative
	Wassaw National Wildlife Refuge	10/20/1969	Georgia	Administrative
	Grulla National Wildlife Refuge	11/6/1969	New Mexico/ Texas	Administrative
	Hobe Sound National Wildlife Refuge	1969	Florida	Administrative
	Nomans Land Island National Wildlife Refuge	4/29/1970	Massachusetts	Administrative
	Ninigret National Wildlife Refuge	8/12/1970	Rhode Island	Administrative
	Sachuest Point National Wildlife Refuge	11/3/1970	Rhode Island	Administrative
	Sequoyah National Wildlife Refuge	12/11/1970	Oklahoma	Administrative
	Wallops Island National Wildlife Refuge	3/11/1971	Virginia	Administrative
	Conscience Point National Wildlife Refuge	7/20/1971	New York	Administrative
	Lake Otis National Wildlife Refuge	8/4/1971	North Dakota	Administrative
	St. Johns National Wildlife Refuge	8/16/1971	Florida	Administrative
	Humboldt Bay National Wildlife Refuge	09-1971	California	Administrative
	Saddle Mountain National Wildlife Refuge	11/30/1971	Washington	Administrative

Julia Butler Hansen Refuge For The Columbian White- Tailed Deer	12/17/1971	Washington/ Oregon	Administrative
Lewis And Clark National Wildlife Refuge	4/19/1972	Oregon	Administrative
Plum Tree Island National Wildlife Refuge	4/24/1972	Virginia	Administrative
Wapack National Wildlife Refuge	5/17/1972	New Hampshire	Administrative
John Heinz National Wildlife Refuge At Tinicum	6/30/1972	Pennsylvania	Public Law
Attwater Prairie Chicken National Wildlife Refuge	7/1/1972	Texas	Administrative
Seal Island National Wildlife Refuge	7/24/1972	Maine	Administrative
Thacher Island National Wildlife Refuge	7/25/1972	Massachusetts	Administrative
Pearl Harbor National Wildlife Refuge	10/17/1972	Hawaii	Administrative
Hanalei National Wildlife Refuge	11/30/1972	Hawaii	Administrative
Stewart B. McKinney National Wildlife Refuge (Originally Salt Meadow NWR)	1972	Connecticut	Administrative
Occoquan Bay National Wildlife Refuge (Originally Marumsco NWR)	1972	Virginia	Administrative
Pond Island National Wildlife Refuge	3/9/1973	Maine	Administrative
Huleia National Wildlife Refuge	4/24/1973	Hawaii	Administrative
Nantucket National Wildlife Refuge	5/1/1973	Massachusetts	Administrative
Swan River National Wildlife Refuge	5/14/1973	Montana	Administrative
Salinas River National Wildlife Refuge	6/27/1973	California	Administrative
Rose Atoll National Wildlife Refuge	8/24/1973	American Samoa	Administrative

Franklin Island National Wildlife Refuge	9/19/1973	Maine	Administrative
Block Island National Wildlife Refuge	11/1/1973	Rhode Island	Administrative
Nansemond National Wildlife Refuge	12/12/1973	Virginia	Administrative
Sevilleta National Wildlife Refuge	12/28/1973	New Mexico	Administrative
Meredosia National Wildlife Refuge	1973	Illinois	Administrative
San Pablo Bay National Wildlife Refuge	2/6/1974	California	Administrative
Supawna Meadows National Wildlife Refuge	4/10/1974	New Jersey	Administrative
Nisqually National Wildlife Refuge	2/21/1974	Washington	Administrative
Cabo Rojo National Wildlife Refuge	5/20/1974	Puerto Rico	Administrative
Oxbow National Wildlife Refuge	5/24/1974	Massachusetts	Administrative
Baker Island National Wildlife Refuge	6/27/1974	Baker Island	Executive Order
Howland Island National Wildlife Refuge	6/27/1974	Howland Island	Executive Order
Jarvis Island National Wildlife Refuge	6/27/1974	Jarvis Island	Executive Order
Seal Beach National Wildlife Refuge	7/11/1974	California	Public Law
Petit Manan National Wildlife Refuge	7/9/1974	Maine	Administrative
Egmont Key National Wildlife Refuge	7/10/1974	Florida	Public Law

Ford	Trustom Pond National Wildlife Refuge	8/15/1974	Rhode Island	Administrative
	Don Edwards San Francisco Bay National Wildlife Refuge	10/8/1974	California	Public Law
	Hopper Mountain National Wildlife Refuge	12/18/1974	California	Administrative
	Karl E. Mundt National Wildlife Refuge	12/19/1974	South Dakota/ Nebraska	Administrative

	Great Dismal Swamp National Wildlife Refuge	1974	North Carolina/Virginia	Public Law
	Optima National Wildlife Refuge	3/24/1975	Oklahoma	Administrative
	Hillside National Wildlife Refuge	4/14/1975	Mississippi	Administrative
	D'Arbonne National Wildlife Refuge	5/19/1975	Louisiana	Administrative
	Felsenthal National Wildlife Refuge	5/19/1975	Arkansas	Administrative
	Big Stone National Wildlife Refuge	5/21/1975	Minnesota	Administrative
	Big Stone National Wildlife Refuge	11/21/1975	California	Administrative
	Mississippi Sandhill Crane National Wildlife Refuge	11/25/1975	Mississippi	Administrative
	Pinckney Island National Wildlife Refuge	12/3/1975	South Carolina	Administrative
	Kakahaia National Wildlife Refuge	3/15/1976	Hawaii	Administrative
	Minnesota Valley National Wildlife Refuge	10/8/1976	Minnesota	Public Law
	James Campbell National Wildlife Refuge	12/17/1976	Hawaii	Administrative
	Desecheo National Wildlife Refuge	12/22/1976	Puerto Rico	Administrative
Carter	Morgan Brake National Wildlife Refuge	9/29/1977	Mississippi	Administrative
	Green Cay National Wildlife Refuge	12/19/1977	Virgin Islands	Administrative
	Panther Swamp National Wildlife Refuge	1/11/1978	Mississippi	Administrative
	Bear Valley National Wildlife Refuge	5/31/1978	Oregon	Administrative
	Sauta Cave National Wildlife Refuge	9/15/1978	Alabama	Administrative
	Upper Ouachita National Wildlife Refuge	11/9/1978	Louisiana	Administrative
	Texas Point National Wildlife Refuge	12/21/1978	Texas	Administrative

Featherstone National Wildlife Refuge	12/29/1978	Virginia	Public Law
Lower Rio Grande Valley National Wildlife Refuge	2/12/1979	Texas	Administrative
Lower Suwannee National Wildlife Refuge	4/10/1979	Florida	Administrative
Fox River National Wildlife Refuge	4/19/1979	Wisconsin	Administrative
Grasslands Wildlife Management Area	7/27/1979	California	Administrative
Moapa Valley National Wildlife Refuge	9/10/1979	Nevada	Administrative
Mcfaddin National Wildlife Refuge	5/1/1980	Texas	Administrative
Antioch Dunes National Wildlife Refuge	3/4/1980	California	Administrative
Butte Sink Wildlife Management Area	3/4/1980	California	Administrative
Crocodile Lake National Wildlife Refuge	4-1980	Florida	Administrative
Bon Secour National Wildlife Refuge	6/9/1980	Alabama	Public Law
Lower Hatchie National Wildlife Refuge	6/19/1980	Tennessee	Administrative
Tensas River National Wildlife Refuge	6/28/1980	Louisiana	Public Law
Cross Island National Wildlife Refuge	7/3/1980	Maine	Administrative
Mathews Brake National Wildlife Refuge	9/3/1980	Mississippi	Administrative
Kirtlands Warbler Wildlife Management Area	9/3/1980	Michigan	Administrative
Watercress Darter National Wildlife Refuge	10/1/1980	Alabama	Administrative
Castle Rock National Wildlife Refuge	11/20/1980	California	Administrative
Overflow National Wildlife Refuge	11/25/1980	Arkansas	Administrative
Alaska Peninsula National Wildlife Refuge	12/2/1980	Alaska	Public Law
Arctic National Wildlife	12/2/1980	Alaska	Public Law

Refuge				
Becharof National Wildlife Refuge	12/2/1980	Alaska	Public Law	
Innoko National Wildlife Refuge	12/2/1980	Alaska	Public Law	
Kanut National Wildlife Refuge	12/2/1980	Alaska	Public Law	
Koyukuk National Wildlife Refuge	12/2/1980	Alaska	Public Law	
Nowitna National Wildlife Refuge	12/2/1980	Alaska	Public Law	
Selawik National Wildlife Refuge	12/2/1980	Alaska	Public Law	
Tetlin National Wildlife Refuge	12/2/1980	Alaska	Public Law	
Togiak National Wildlife Refuge	12/2/1980	Alaska	Public Law	
Yukon Delta National Wildlife Refuge	12/2/1980	Alaska	Public Law	
Yukon Flats National Wildlife Refuge	12/2/1980	Alaska	Public Law	
Tijuana Slough National Wildlife Refuge	12/24/1980	California	Administrative	

Reagan	Bogue Chitto National Wildlife Refuge	6/28/1981	Louisiana/ Mississippi	Public Law
	Fern Cave National Wildlife Refuge	10/28/1981	Alabama	Administrative
	Bandon Marsh National Wildlife Refuge	12/29/1981	Oregon	Public Law
	San Bernardino National Wildlife Refuge	4/1/1982	Arizona	Administrative
	Protection Island National Wildlife Refuge	10/15/1982	Washington	Public Law
	Blue Ridge National Wildlife Refuge	12/30/1982	California	Administrative
	Big Boggy National Wildlife Refuge	7/8/1983	Texas	Administrative
	Currituck National Wildlife Refuge	8/2/1983	North Carolina	Administrative
	Crystal River National Wildlife Refuge	8/17/1983	Florida	Administrative

Massasoit National Wildlife Refuge	9/21/1983	Massachusetts	Administrative
Harbor Island National Wildlife Refuge	12/8/1983	Michigan	Administrative
Pierce National Wildlife Refuge	12/31/1983	Washington	Administrative
Alligator River National Wildlife Refuge	3/14/1984	North Carolina	Administrative
Ash Meadows National Wildlife Refuge	6/18/1984	Nevada	Administrative
Eastern Shore Of Virginia National Wildlife Refuge	6/8/1984	Virginia	Administrative
Sandy Point National Wildlife Refuge	8/30/1984	Virgin Islands	Administrative
Banks Lake National Wildlife Refuge	2/22/1985	Georgia	Administrative
Buenos Aires National Wildlife Refuge	2/27/1985	Arizona	Administrative
Bitter Creek National Wildlife Refuge	7/1/1985	California	Administrative
Chickasaw National Wildlife Refuge	5/14/1985	Tennessee	Administrative
Willow Creek-Lurline Wildlife Management Area	8/7/1985	California	Administrative
Coachella Valley National Wildlife Refuge	8/28/1985	California	Administrative
Ozark Plateau National Wildlife Refuge	9/26/1985	Oklahoma	Administrative
Hakalau Forest National Wildlife Refuge	10/29/1985	Hawaii	Administrative
Kilauea Point National Wildlife Refuge	1985	Hawaii	Administrative
Cache River National Wildlife Refuge	6/16/1986	Arkansas	Administrative
Atchafalaya National Wildlife Refuge	8/8/1986	Louisiana	Public Law
Little Sandy National Wildlife Refuge	12/18/1986	Texas	Administrative
Little River National Wildlife Refuge	2/10/1987	Oklahoma	Administrative

	John Hay National Wildlife Refuge	3/19/1987	New Hampshire	Administrative
	Pilot Knob National Wildlife Refuge	7/17/1987	Missouri	Administrative
	San Joaquin River National Wildlife Refuge	12/2/1987	California	Administrative
	Steigerwald Lake National Wildlife Refuge	1987	Washington	Administrative
	Leslie Canyon National Wildlife Refuge	5/31/1988	Arizona	Administrative
	Lake Ophelia National Wildlife Refuge	6/30/1988	Louisiana	Administrative
	San Diego Bay National Wildlife Refuge	8/12/1988	California	Administrative
	Sunkhaze Meadows National Wildlife Refuge	10/22/1988	Maine	Administrative
	John H. Chafee National Wildlife Refuge (Originally Pettquamscutt NWR)	11/5/1988	Rhode Island	Public Law
	Cameron Prairie National Wildlife Refuge	12/28/1988	Louisiana	Administrative
	Handy Brake National Wildlife Refuge	1988	Louisiana	Administrative
H.W. Bush	Logan Cave National Wildlife Refuge	3/14/1989	Arkansas	Administrative
	Grand Cote National Wildlife Refuge	3/17/1989	Louisiana	Administrative
	Florida Panther National Wildlife Refuge	6/1/1989	Florida	Administrative
	Cape May National Wildlife Refuge	6/27/1989	New Jersey	Administrative
	Laguna Cartagena National Wildlife Refuge	8/8/1989	Puerto Rico	Congress/ Administrative
	Roanoke River National Wildlife Refuge	8/10/1989	North Carolina	Administrative
	Hamden Slough National Wildlife Refuge	9/19/1989	Minnesota	Administrative
	Sacramento River National Wildlife Refuge	9/21/1989	California	Administrative

Bond Swamp National Wildlife Refuge	10/16/1989	Georgia	Administrative
Driftless Area National Wildlife Refuge	10/16/1989	Iowa	Administrative
St. Catherine Creek National Wildlife Refuge	1/16/1990	Mississippi	Administrative
Bayou Sauvage National Wildlife Refuge	4/25/1990	Louisiana	Public Law
Franz Lake National Wildlife Refuge	5/22/1990	Washington	Administrative
Pocosin Lakes National Wildlife Refuge	6/26/1990	North Carolina	Administrative
Cypress Creek National Wildlife Refuge	6/26/1990	Illinois	Administrative
Grays Harbor National Wildlife Refuge	8/29/1990	Washington	Public Law
Ace Basin National Wildlife Refuge	9/20/1990	South Carolina	Administrative
Ohio River Islands National Wildlife Refuge	11/13/1990	West Virginia/ Pennsylvania/ Kentucky	Administrative
Tallahatchie National Wildlife Refuge	3/5/1991	Mississippi	Administrative
Nestucca Bay National Wildlife Refuge	3/21/1991	Oregon	Administrative
James River National Wildlife Refuge	3/27/1991	Virginia	Administrative
Neal Smith National Wildlife Refuge (Originally Walnut Creek NWR)	4/16/1991	Florida	Public Law
Archie Carr National Wildlife Refuge	6/25/1991	Florida	Congress/ Administrative
Ozark Cavefish National Wildlife Refuge	10/22/1991	Missouri	Administrative
North Central Valley Wildlife Management Area	10/23/1991	California	Administrative
Siletz Bay National Wildlife Refuge	10/23/1991	Oregon	Administrative
Rydell National Wildlife Refuge	1/31/1992	Minnesota	Administrative

	Bayou Cocodrie National Wildlife Refuge	2/11/1992	Louisiana	Public Law
	Wallkill River National Wildlife Refuge	2/16/1992	New Jersey/ New York	Public Law
	Balcones Canyonlands National Wildlife Refuge	2/25/1992	Texas	Administrative
	Marin Islands National Wildlife Refuge	4/16/1992	California	Administrative
	Two Ponds National Wildlife Refuge	5/26/1992	Colorado	Administrative
	Marais Des Cygnes National Wildlife Refuge	8/7/1992	Kansas	Administrative
	Great Bay National Wildlife Refuge	8/11/1992	New Hampshire	Public Law
	Lake Umbagog National Wildlife Refuge	11/17/1992	New Hampshire/ Maine	Administrative
	Kealia Pond National Wildlife Refuge	12/8/1992	Hawaii	Administrative
	Tualatin River National Wildlife Refuge	12/31/1992	Oregon	Administrative
	Dahomey National Wildlife Refuge	1992	Mississippi	Administrative
	Grand Bay National Wildlife Refuge	1992	Mississippi/ Alabama	Administrative
Clinton	Bill Williams River National Wildlife Refuge	6/17/1993	Arizona	Administrative
	Deep Fork National Wildlife Refuge	6/30/1993	Oklahoma	Administrative
	Crane Meadows National Wildlife Refuge	9/10/1993	Minnesota	Administrative
	Bald Knob National Wildlife Refuge	9/22/1993	Arkansas	Administrative
	Guam National Wildlife Refuge	10/1/1993	Guam	Administrative
	Cokeville Meadows National Wildlife Refuge	10/12/1993	Wyoming	Administrative
	Emiquon National Wildlife Refuge	12/29/1993	Illinois	Administrative

Mortenson Lake National Wildlife Refuge	1993	Wyoming	Administrative
Trinity River National Wildlife Refuge	1/4/1994	Texas	Administrative
Lake Wales Ridge National Wildlife Refuge	4/22/1994	Florida	Administrative
Canaan Valley National Wildlife Refuge	8/11/1994	West Virginia	Administrative
Pond Creek National Wildlife Refuge	8/12/1994	Arkansas	Administrative
Patoka River National Wildlife Refuge	9/8/1994	Indiana	Administrative
Stone Lakes National Wildlife Refuge	10/12/1994	California	Administrative
Big Branch Marsh National Wildlife Refuge	10/13/1994	Louisiana	Administrative
Big Muddy National Fish And Wildlife Refuge	4/3/1995	Missouri	Administrative
Mashpee National Wildlife Refuge	9/28/1995	Massachusetts	Administrative
San Diego National Wildlife Refuge	4/10/1996	California	Administrative
Mandalay National Wildlife Refuge	5/2/1996	Louisiana	Administrative
Rappahannock River Valley National Wildlife Refuge	5/28/1996	Virginia	Administrative
Midway Atoll National Wildlife Refuge	10/31/1996	Midway Island	Executive Order
Ten Thousand Islands National Wildlife Refuge	12/18/1996	Florida	Public Law
Key Cave National Wildlife Refuge	1/3/1997	Alabama	Administrative
Blackfoot Valley Wildlife Management Area	2/3/1997	Montana	Administrative
Black Bayou Lake National Wildlife Refuge	6/16/1997	Louisiana	Administrative
Boyer Chute National Wildlife Refuge	9/30/1997	Nebraska	Administrative
Silvio O. Conte National Fish And Wildlife Refuge	10/3/1997	Massachusetts /Vermont/	Public Law

		New Hampshire	
Waccamaw National Wildlife Refuge	12/1/1997	South Carolina	Administrative
Clarks River National Wildlife Refuge	6/19/1997	Kentucky	Administrative
Aroostook National Wildlife Refuge	10/1/1998	Maine	Administrative
Colorado River Wildlife Management Area	6/14/1999	Utah	Administrative
Shawangunk Grasslands National Wildlife Refuge	7/27/1999	New York	Administrative
Lost Trail National Wildlife Refuge	8/24/1999	Montana	Administrative
Navassa Island National Wildlife Refuge	9/30/1999	Navassa Island	Administrative
Whittlesey Creek National Wildlife Refuge	9/30/1999	Wisconsin	Administrative
John W. And Louise Seier National Wildlife Refuge	10/26/1999	Nebraska	Administrative
Cat Island National Wildlife Refuge	10-2000	Louisiana	Public Law
North Dakota Wildlife Management Area	2/25/2000	North Dakota	Administrative
Big Oaks National Wildlife Refuge	6/30/2000	Indiana	Administrative
Guadalupe-Nipomo Dunes National Wildlife Refuge	8/1/2000	California	Administrative
Northern Tallgrass Prairie National Wildlife Refuge	9/15/2000	Minnesota	Administrative
Caddo Lake National Wildlife Refuge	10/19/2000	Texas	Administrative
Oahu Forest National Wildlife Refuge	12/21/2000	Hawaii	Administrative
Dakota Tallgrass Prairie Wildlife Management Area	12/19/2000	North Dakota/ South Dakota	Administrative
Assabet River National Wildlife Refuge	2000	Massachusetts	Administrative
Coldwater River National Wildlife Refuge	2000	Mississippi	Administrative

	Kingman Reef National Wildlife Refuge	1/18/2001	Kingman Reef	Administrative
	Palmyra Atoll National Wildlife Refuge	1/18/2001	Palmyra Atoll	Administrative
W. Bush	Vieques National Wildlife Refuge	5/1/2001	Puerto Rico	Public Law
	Bayou Teche National Wildlife Refuge	10/31/2001	Louisiana	Administrative
	Detroit River International Wildlife Refuge	12/21/2001	Michigan	Public Law
	Red River National Wildlife Refuge	8/22/2002	Louisiana	Public Law
	Cahaba River National Wildlife Refuge	9/25/2002	Alabama	Public Law
	Baca National Wildlife Refuge	4/8/2003	Colorado	Public Law
	Mountain Longleaf National Wildlife Refuge	5/29/2003	Alabama	Public Law
	Theodore Roosevelt National Wildlife Refuge	1/23/2004	Mississippi	Public Law
	Holt Collier National Wildlife Refuge	1/23/2004	Mississippi	Public Law
	Rocky Mountain Arsenal National Wildlife Refuge	4/21/2004	Colorado	Public Law
	Glacial Ridge National Wildlife Refuge	10/26/2004	Minnesota	Administrative
	Rocky Mountain Front Conservation Area	8/10/2005	Montana	Administrative
	Neches River National Wildlife Refuge	8/23/2006	Texas	Administrative
	Rocky Flats National Wildlife Refuge	7/12/2007	Colorado	Public Law
	Wake Atoll National Wildlife Refuge	1/16/2009	Wake Island	Administrative
	Mariana Trench National Wildlife Refuge	1/16/2009	Mariana Islands	Administrative
	Mariana Arc Of Fire National Wildlife Refuge	1/16/2009	Mariana Islands	Administrative

Obama	Tulare Basin Wildlife Management Area	3/22/2010	California	Administrative
	Cherry Valley National Wildlife Refuge	10/18/2010	Pennsylvania	Administrative
	Dakota Grassland Conservation Area	9/21/2011	South Dakota	Administrative
	Flint Hills Legacy Conservation Area	9/28/2011	Kansas	Administrative
	Everglades Headwaters National Wildlife Refuge And Conservation Area	1/13/2012	Florida	Administrative
	Swan Valley Conservation Area	8/6/2012	Montana	Administrative
	Sangre De Cristo Conservation Area	9/14/2012	Colorado	Administrative
	Valle De Oro National Wildlife Refuge	9/21/2012	New Mexico	Administrative
	Rio Mora National Wildlife Refuge And Conservation Area	9/27/2012	New Mexico	Administrative
	Hackmatack National Wildlife Refuge	11/6/2012	Illinois	Administrative
	Wapato Lake National Wildlife Refuge	12/3/2012	Oregon	Administrative
	Mountain Bogs National Wildlife Refuge	4/20/2015	North Carolina	Administrative
	Kankakee National Wildlife Refuge And Conservation Area	5/25/2016	Indiana/ Illinois	Administrative
	Bear River Watershed Conservation Area	6/28/2016	Utah	Administrative

Notes: For establishment method, executive orders are issued by the president, public laws are passed by Congress, and administrative refers to directives issued by an executive agency or secretary. For more detailed information on the compilation of this dataset, please see Appendix I: Additional Methodology.

Sources: 2014 *Annual Report Migratory Bird Conservation Commission*. Falls Church VA: U.S. Fish and Wildlife Service, 2014, *Bird Refuges and Big-Game Preserves Administered by the Bureau of Biological Survey*. Divisions of Game Management and Migratory Waterfowl, U.S. Department of Agriculture, Bureau of Biological Survey. Washington, D.C.: August 1935, Dumont, Philip A. and Henry W. Thomas, *Modification of National Wildlife Refuges*. U.S. Department of the Interior, U.S. Fish and Wildlife Service. December 1975, *Land Areas of the National Forest System as of September 30, 2015*. Lands Staff, U.S. Forest Service. Washington, D.C.: USDA Forest Service, 2015, and *National Wildlife Refuge Comprehensive Conservation Plans*. (Various.) Plans issued by the U.S. Fish and Wildlife Service beginning from the year 1997. Plans compiled for individual refuges or refuge complexes.

Table V: Presidential National Monuments

Presidential Administration	Monument Name	Date Established	State	Acreage
T. Roosevelt	Devils Tower	9/24/1906	Wyoming	1,193.10
	El Morro	12/8/1906	New Mexico	160
	Montezuma Castle	12/8/1906	Arizona	161.39
	Petrified Forest	12/8/1906	Arizona	60,776.02
	Chaco Canyon	3/11/1907	New Mexico	10,643.13
	Cinder Cone	5/6/1907	California	5,120
	Lassen Volcanic	5/6/1907	California	1,280
	Gila Cliff Dwellings	11/16/1907	New Mexico	160
	Tonto	12/19/1907	Arizona	640
	Muir Woods	1/9/1908	California	295
	Grand Canyon	1/11/1908	Arizona	808,120
	Pinnacles	1/16/1908	California	1,320.00
	Jewel Cave	2/7/1908	South Dakota	1,274.56
	Natural Bridges	4/16/1908	Utah	120
	Lewis and Clark Cavern	5/11/1908	Montana	160
	Tumacacori	9/15/1908	Arizona	10
	Wheeler	12/7/1908	Colorado	300
	Mount Olympus	3/2/1909	Washington	639,200
Taft	Navajo	3/20/1909	Arizona	360.00
	Oregon Caves	7/12/1909	Oregon	465.80
	Mukuntu-Weap/Zion	7/31/1909	Utah	16,000
	Shoshone Cavern	9/21/1909	Wyoming	210
	Gran Quivira	11/1/1909	New Mexico	160
	Sitka	3/23/1910	Alaska	57.00
	Rainbow Bridge	5/30/1910	Utah	160
	Big Hole Battlefield	6/23/1910	Montana	5.00
	Colorado	5/24/1911	Colorado	13,883.06
	Devil Postpile	7/6/1911	California	798.46
Wilson	Cabrillo	10/14/1913	California	0.50
	Papago Saguaro	1/31/1914	Arizona	2,050.43
	Dinosaur	10/4/1915	Utah/Colorado	80
	Walnut Canyon	11/30/1915	Arizona	960
	Bandelier	2/11/1916	New Mexico	23,352

	Sieur de Monts	7/8/1916	Maine	5,000
	Capulin Mountain	8/9/1916	New Mexico	640.42
	Old Kasaan	10/25/1916	Alaska	43
	Verendrye	6/29/1917	North Dakota	253.04
	Casa Grande	8/3/1918	Arizona	480
	Katmai	9/24/1918	Alaska	1,088,000
	Scotts Bluff	12/12/1919	Nebraska	2,053.83
	Yucca House	12/19/1919	Colorado	9.60
Harding	Lehman Caves	1/24/1922	Nevada	593.03
	Timpanogos Cave	10/14/1922	Utah	250
	Fossil Cycad	10/21/1922	South Dakota	320
	Aztec Ruin	1/24/1923	New Mexico	4.60
	Hovenweep	3/2/1923	Utah/Colorado	285.80
	Mound City	3/2/1923	Ohio	57
	Group			
	Pipe Springs	5/31/1923	Arizona	40
	Bryce Canyon	6/8/1923	Utah	7,440
Coolidge	Carlsbad Cave	10/25/1923	New Mexico	719.22
	Chiricahua	4/18/1924	Arizona	3,655.12
	Craters of the Moon	5/2/1924	Idaho	22,651.80
	Fort Wood	1/15/1924	New York	2.50
	Castle Pinckney	10/15/1924	South Carolina	3.50
	Fort Pulaski	10/15/1924	Georgia	20
	Fort Marion	10/15/1924	Florida	18.51
	Fort Matanzas	10/15/1924	Florida	1.00
	Wupatki	12/9/1924	Arizona	2,234.10
	Meriwether Lewis	2/6/1925	Tennessee	50
	Glacier Bay	2/26/1925	Alaska	1,379,315.58
	Father Millet	9/5/1925	New York	0.0074
	Cross			
	Lava Beds	11/21/1925	California	45,589.92
Hoover	Arches	4/12/1929	Utah	4,520
	Holy Cross	5/11/1929	Colorado	1,392
	Sunset Crater	5/26/1930	Arizona	3,040
	Grand Canyon "II"	12/22/1932	Arizona	273,145
	Great Sand Dunes	3/17/1932	Colorado	35,528.36
	White Sands	1/18/1933	New Mexico	131,486.84
	Death Valley	2/11/1933	California/ Nevada	848,581.36

	Saguaro	3/1/1933	Arizona	53,510.08
	Black Canyon of the Gunnison	3/2/1933	Colorado	10,287.95
F. Roosevelt	Cedar Breaks	8/22/1933	Utah	5,701.39
	Fort Jefferson	1/4/1935	Florida	47,125
	Joshua Tree	8/10/1936	California	825,340
	Zion "II" (Kolob Section)	1/22/1937	Utah	49,150
	Organ Pipe Cactus	4/13/1937	Arizona	330,690
	Capitol Reef	8/2/1937	Utah	37,060
	Channel Islands	4/26/1938	California	1,119.98
	Fort Laramie	7/16/1938	Wyoming	214.41
	Santa Rosa Island	5/17/1939	Florida	9,500
	Tuzigoot	7/25/1939	Arizona	42.67
	Jackson Hole	3/15/1943	Wyoming	210,950
Truman	Effigy Mounds	10/25/1949	Iowa	1,000
Eisenhower	Edison Laboratory	7/14/1956	New Jersey	1.51
	Chesapeake and Ohio Canal	1/18/1961	Maryland	5,263.94
Kennedy	Russell Cave	5/11/1961	Alabama	310.45
	Buck Island Reef	12/28/1961	Virgin Islands	850.00
Johnson	Marble Canyon	1/20/1969	Arizona	32,546.69
Carter	Admiralty Island	12/1/1978	Alaska	1,100,000
	Aniakchak	12/1/1978	Alaska	350,000
	Becharof	12/1/1978	Alaska	1,200,000
	Bering Land Bridge	12/1/1978	Alaska	2,590,000
	Cape Krusenstern	12/1/1978	Alaska	560,000
	Denali	12/1/1978	Alaska	3,890,000
	Gates of the Arctic	12/1/1978	Alaska	8,220,000
	Kenai Fjords	12/1/1978	Alaska	570,000
	Kobuk Valley	12/1/1978	Alaska	1,710,000
	Lake Clark	12/1/1978	Alaska	2,500,000
	Misty Fjords	12/1/1978	Alaska	2,285,000
	Noatak	12/1/1978	Alaska	5,880,000
	Wrangell-St. Elias	12/1/1978	Alaska	10,950,000
	Yukon-Charley Rivers	12/1/1978	Alaska	1,720,000

	Yukon Flats	12/1/1978	Alaska	10,600,000
Clinton	Grand-Staircase Escalante	9/18/1996	Utah	1,700,000
	Agua Fria	1/11/2000	Arizona	71,100
	California Coastal	1/11/2000	California	883
	Grand Canyon-Parashant	1/11/2000	Arizona	1,014,000
	Giant Sequoia	4/15/2000	California	327,769
	Canyons of the Ancients	6/9/2000	Colorado	164,000
	Cascade-Siskiyou	6/9/2000	Oregon	52,000
	Hanford Reach	6/9/2000	Washington	195,000
	Ironwood Forest	6/9/2000	Arizona	128,917
	President Lincoln and Soldier's Home	7/7/2000	Washington, D.C.	2.30
	Vermillion Cliffs	11/9/2000	Arizona	293,000
	Carrizo Plain	1/17/2001	California	204,107
	Kasha-Katuwe Tent Rocks	1/17/2001	New Mexico	4,148
	Minidoka Internment	1/17/2001	Idaho	72.75
	Pompeys Pillar	1/17/2001	Montana	51.00
	Sonoran Desert	1/17/2001	Arizona	486,149
	Upper Missouri River Breaks	1/17/2001	Montana	377,346
	Virgin Islands Coral Reef	1/17/2001	Virgin Islands	12,708
	Governors Island	1/19/2001	New York	20
W. Bush	African Burial Ground	2/27/2006	New York	0.345
	Papahānaumokuākea Marine Monument	6/15/2006	Hawaii	89,600,000
	World War II Valor in the Pacific	12/5/2008	Hawaii	6,310
	Rose Atoll Marine Monument	1/6/2009	American Samoa	8,608,640
	Pacific Remote Islands Marine Monument	1/6/2009	Hawaii	55,608,320

	Marianas Trench Marine Monument	1/6/2009	Northern Mariana Islands and Guam	60,938,240
Obama	Fort Monroe	11/1/2011	Virginia	325.21
	Fort Ord	4/20/2012	California	14,651
	Chimney Rock	9/21/2012	Colorado	4,726
	Cesar Chavez	10/8/2012	California	10.50
	San Juan Islands	3/25/2013	Washington	970
	Rio Grande del Norte	3/25/2013	New Mexico	242,555
	Harriet Tubman Underground Railroad	3/25/2013	Maryland	11,750
	First State	3/25/2013	Delaware	1,108
	Charles Young Buffalo Soldiers	3/25/2013	Ohio	59.65
	Organ Mountains- Desert Peaks	5/21/2014	New Mexico	496,330
	San Gabriel Mountains	10/10/2014	California	346,177
	Browns Canyon	2/19/2015	Colorado	21,586
	Pullman	2/19/2015	Illinois	0.23970
	Honouliuli	2/24/2015	Hawaii	123
	Basin and Range	7/10/2015	Nevada	704,000
	Berryessa Snow Mountain	7/10/2015	California	330,780
	Waco Mammoth	7/10/2015	Texas	7.11
	Mojave Trails	2/12/2016	California	1,600,000
	Sand to Snow	2/12/2016	California	154,000
	Castle Mountain	2/12/2016	California	20,920
	Belmont-Paul Women's Equality	4/12/2016	Washington, DC	0.34
	Stonewall	6/24/2016	New York	0.12
	Katahdin Woods and Waters	8/24/2016	Maine	87,500
	Northeast Canyons and Seamounts Marine Monument	9/15/2016	New England	3,144,320

Note: All presidential national monuments are designated via presidential proclamations. For more detailed information on the compilation of this dataset, please see Appendix I: Additional Methodology.

Sources: *Antiquities Act Monuments List*. National Park Service Archaeology Program. Washington, D.C.: U.S. National Park Service, 2006, and *Proclamations, Presidential Actions*. United States White House. Available: <https://www.whitehouse.gov/briefing-room/presidential-actions/proclamations>.

Table VI: Congressional National Monuments

Presidential Administration	Congress	Monument Name	Date Established	State	Acreage
Coolidge	69th	Kill Devil Hill	3/2/1927	North Carolina	314
Hoover	71st	George Washington Birthplace	1/23/1930	Virginia	393.68
	71st	Colonial	7/3/1930	Virginia	2,500
	71st	Canyon de Chilly	2/14/1931	Arizona	83,840
F. Roosevelt	73rd	Ocmulgee	6/14/1934	Georgia	678.48
	74th	Appomattox	8/13/1935	Virginia	1.00
	74th	Patrick Henry	8/15/1935	Virginia	N/A never acquired
	74th	Fort Stanwix	8/21/1935	New York	15.52
	74th	Ackia Battleground	8/27/1935	Mississippi	49
	74th	Andrew Johnson	8/29/1935	Tennessee	16.68
	74th	Homestead	3/19/1936	Nebraska	160
	74th	Fort Frederica	5/26/1936	Georgia	80
	74th	Perry's Victory	6/2/1936	Ohio	14.25
	74th	Whitman	6/29/1936	Washington	45.94
	75th	Pipestone	8/25/1937	Minnesota	115.86
	76th	Badlands*	1/24/1939	South Dakota	130,000
	76th	Fort McHenry	8/11/1939	Maryland	43.46
	78th	George Washington Carver	7/14/1943	Missouri	240
	78th	Harpers Ferry	6/30/1944	West Virginia	1,500
Truman	79th	Custer Battlefield	3/22/1946	Montana	765.34
	79th	Castle Clinton	8/12/1946	New York	1.00
	80th	Fort Sumter	4/28/1948	South Carolina	125
	80th	Fort Vancouver	6/19/1948	Washington	209

	81st	Saint Croix	6/8/1949	Wisconsin	28.44
Eisenhower	83rd	Fort Union	6/28/1954	New Mexico	720.60
	84th	Booker T. Washington	4/2/1956	Virginia	199
	85th	Grand Portage	9/2/1958	Minnesota	709.97
Johnson	89th	Agate Fossil Beds	6/5/1965	Nebraska	3,065
	89th	Pecos	6/28/1965	New Mexico	342.00
	89th	Alibates Flint Quarries	8/31/1965	Texas	1,371
	90th	Biscayne	10/18/1968	Florida	172,924.07
Nixon	91st	Florissant Fossil Beds	8/20/1969	Colorado	5,998
	92nd	Hohokam Pima	10/21/1972	Arizona	1,690
	92nd	Fossil Butte	10/23/1972	Wyoming	8,198
Ford	93rd	John Day Fossil Butte	10/26/1974	Oregon	14,402.23
	94th	Congaree Swamp	10/18/1976	South Carolina	21,867.53
Carter	96th	Salinas	12/19/1980	New Mexico	466
Reagan	97th	Mount Saint Helens	8/26/1982	Washington	110,000
	100th	El Malpais	12/31/1987	New Mexico	114,277
	100th	Poverty Point	10/31/1988	Louisiana	402.00
	100th	Hagerman Fossil Beds	11/18/1988	Idaho	4,351
H.W. Bush	101st	Petroglyph	6/27/1990	New Mexico	7,236
Clinton	106th	Santa Rosa and San Jacinto Mountains	10/24/2000	California	280,022

Obama	111th	Prehistoric Trackways	3/30/2009	New Mexico	5,280
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Note: For more detailed information on the compilation of this dataset, please see Appendix I: Additional Methodology.

Source: *Frequently Asked Questions, Antiquities Act*. National Park Service Archaeology Program. Washington, D.C.: U.S. National Park Service, 2006.

Table VII: National Parks

Presidential Administration	Park Name	Date Established	State
Ulysses S. Grant	Yellowstone	3/1/1872	Wyoming/ Montana/Idaho
Harrison	Sequoia	9/25/1890	California
	Yosemite	10/1/1890	California
	Kings Canyon	10/1/1890	California
McKinley	Mount Rainier	3/2/1899	Washington
T. Roosevelt	Crater Lake	5/22/1902	Oregon
	Wind Cave	1/9/1903	South Dakota
	Mesa Verde	6/29/1906	Colorado
Taft	Glacier	5/11/1910	Montana
Wilson	Rocky Mountain	1/26/1915	Colorado
	Hawaii Volcanoes	8/1/1916	Hawaii
	Lassen Volcanic	8/9/1916	California
	Denali	2/26/1917	Alaska
	Acadia	2/26/1919	Maine
	Grand Canyon	8/15/1919	Arizona
	Zion	11/19/1919	Utah
Harding	Hot Springs	3/4/1921	Arkansas
Coolidge	Bryce Canyon	6/7/1924	Utah
	Shenandoah	5/22/1926	Virginia
	Great Smoky Mountains	5/22/1926	North Carolina/Tennessee
	Mammoth Cave	5/22/1926	Kentucky
	Grand Teton	2/26/1929	Wyoming
Hoover	Carlsbad Caverns	5/14/1930	New Mexico
	Isle Royale	3/3/1931	Michigan
F. Roosevelt	Everglades	5/10/1934	Florida
	Big Bend	6/20/1935	Texas
	Olympic	6/29/1938	Washington

Eisenhower	Haleakala	9/13/1960	Hawaii
Kennedy	Petrified Forest	12/9/1962	Arizona
Johnson	Canyonlands	9/12/1964	Utah
	Guadalupe Mountains	10/15/1966	Texas
	Wolf Trap	10/15/1966	Virginia
	North Cascades	10/2/1968	Washington
	Redwood	10/2/1968	California
	Voyageurs	1/8/1971	Minnesota
Nixon	Arches	11/12/1971	Utah
	Capitol Reef	12/18/1971	Utah
Carter	Badlands	11/10/1978	South Dakota
	Theodore Roosevelt	11/10/1978	North Dakota
	Channel Islands	3/5/1980	California
	Biscayne	6/28/1980	Florida
	Gates of the Arctic	12/2/1980	Alaska
	Glacier Bay	12/2/1980	Alaska
	Katmai	12/2/1980	Alaska
	Kenai Fjords	12/2/1980	Alaska
	Kobuk Valley	12/2/1980	Alaska
	Lake Clark	12/2/1980	Alaska
	Wrangell-St. Elias	12/2/1980	Alaska
Reagan	Great Basin	10/27/1986	Nevada
	National Park of American Samoa	10/31/1988	American Samoa
	Dry Tortugas	10/26/1992	Florida
Clinton	Saguaro	10/14/1994	Arizona
	Death Valley	10/31/1994	Nevada/California
	Joshua Tree	10/31/1994	California
	Black Canyon of the Gunnison	10/21/1999	Colorado
	Cuyahoga Valley	10/11/2000	Ohio
W. Bush	Congaree Swamp	11/10/2003	South Carolina
	Great Sand Dunes	9/24/2004	Colorado
Obama	Pinnacles	1/10/2013	California

Sources: *National Park System Areas Listed in Chronological Order of Date Authorized Under DOI*. Washington, D.C.: U.S. National Park Service, 2005.

Units and Related Areas in the National Park System. Washington, D.C.: U.S. National Park Service, 2015.

Table VIII: National Monuments to National Parks

Presidential Administration	Monument Name	Date Established	Park Redesignation	Date of Redesignation
Roosevelt	Petrified Forest	12/8/1906	Petrified Forest	3/28/1958
	Cinder Cone	5/6/1907	Lassen Volcanic	8/9/1916
	Lassen Volcanic	5/6/1907	Lassen Volcanic	8/9/1916
	Grand Canyon	1/11/1908	Grand Canyon	2/26/1919
	Pinnacles	11/16/1908	Pinnacles	1/10/2013
	Mount Olympus	3/2/1909	Olympic	6/29/1938
Taft	Mukuntuweap	7/31/1909	Zion	11/19/1919
Wilson	Sieur de Monts	7/8/1916	Acadia	1/1/1929
	Katmai	9/24/1918	Katmai	12/2/1980
Harding	Bryce Canyon	6/8/1923	Bryce Canyon	6/7/1924
Coolidge	Carlsbad Cave	10/25/1923	Carlsbad Caverns	5/14/1930
	Glacier Bay	2/26/1925	Glacier Bay	12/2/1980
Hoover	Arches	4/12/1929	Arches	11/12/1971
	Fort Jefferson	3/17/1932	Great Sand Dunes	11/22/2000
	Grand Canyon "II"	12/22/1932	Grand Canyon	1/3/1975
	Saguaro	3/1/1933	Saguaro	10/14/1994
	Black Canyon of Gunnison	3/2/1933	Black Canyon of the Gunnison	10/21/1999
F. Roosevelt	Fort Jefferson	1/4/1935	Dry Tortugas	10/26/1992
	Joshua Tree	8/10/1936	Joshua Tree	10/31/1994
	Zion II (Kolob Section)	1/22/1937	Zion	7/11/1956
	Capitol Reef	8/2/1937	Capital Reef	12/18/1971
	Channel Islands	4/26/1938	Channel Islands	5/31/1980
	Jackson Hole	3/15/1943	Grand Teton	9/14/1950

Carter	Denali	12/1/1978	Denali	12/2/1980
	Gates of the Arctic	12/1/1978	Gates of the Arctic	12/2/1980
	Lake Clark	12/1/1978	Lake Clark	12/2/1980
	Wrangell-St. Elias	12/1/1978	Wrangell-St. Elias	12/2/1980

Monuments Incorporated into Parks

Harding	Lehman Caves	1/24/1922	Great Basin	10/27/1986
Johnson	Marble Canyon	1/20/1969	Grand Canyon	1/3/1975

Note: For more detailed information on the compilation of this dataset, please see Appendix I: Additional Methodology.

Source: *Frequently Asked Questions, Antiquities Act*. National Park Service Archaeology Program. Washington, D.C.: U.S. National Park Service, 2006.

Table IX: National Wilderness Areas

Wilderness Area	Year Established	Legislated Acreage	Administrative Unit	Original Establishment Source
Anaconda Pintler Wilderness	1964	157,803	Beaverhead-Deerlodge NF/Bitterroot NF	Presidency
Ansel Adams Wilderness	1964	109,484	Inyo NF/Sierra NF/Devils Postpile NM	Presidency
Bob Marshall Wilderness	1964	950,000	Flathead NF/Lewis and Clark NF	Presidency
Boundary Waters Canoe Area Wilderness	1964	886,673	Superior NF	Presidency
Bridger Wilderness	1964	383,300	Bridger-Teton NF/Shoshone NF	Presidency
Cabinet Mountains Wilderness	1964	94,272	Kootenai NF	Presidency
Caribou Wilderness	1964	19,080	Lassen NF	Presidency
Chiricahua Wilderness	1964	18,000	Coronado NF	Presidency
Cucamonga Wilderness	1964	9,022	Angeles NF/San Bernardino NF	Presidency
Diamond Peak Wilderness	1964	35,440	Deschutes NF/Williamette NF	Presidency
Domeland Wilderness	1964	62,121	Sequoia NF/BLM	Presidency
Eagle Cap Wilderness	1964	216,250	Wallowa-Whitman NF	Presidency
Galiuro Wilderness	1964	55,000	Coronado NF	Presidency
Gates of the Mountains Wilderness	1964	28,562	Helena NF	Presidency
Gearhart Mountain Wilderness	1964	18,709	Fremont-Winema NF	Presidency
Gila Wilderness	1964	438,360	Gila NF	Presidency
Glacier Peak Wilderness	1964	458,105	Mt. Baker-Snoqualmie NF/Okanogan-Wenatchee NF	Presidency

Goat Rocks Wilderness	1964	82,680	Gifford Pinchot NF/Okanogan-Wenatchee NF	Presidency
Great Gulf Wilderness	1964	5,400	White Mountain NF	Presidency
Hoover Wilderness	1964	42,800	Humboldt-Toiyabe NF/Inyo NF	Presidency
Jarbridge Wilderness	1964	64,667	Humboldt-Toiyabe NF/Inyo NF	Presidency
John Muir Wilderness	1964	502,978	Inyo NF/Sierra NF	Presidency
Kalmiopsis Wilderness	1964	78,850	Rogue River-Siskiyou NF	Presidency
La Garita Wilderness	1964	49,000	Gunnison NF/Rio Grande NF	Presidency
Linville Gorge Wilderness	1964	7,655	Pisgah NF	Presidency
Marble Mountain Wilderness	1964	213,283	Klamath NF/Six Rivers NF	Presidency
Maroon Bells-Snowmass Wilderness	1964	66,100	Gunnison NF/White River NF	Presidency
Mazatzal Wilderness	1964	205,000	Coconino NF/Tonto NF	Presidency
Mokelumne Wilderness	1964	50,400	Eldorado NF/Humboldt-Toiyabe NF/Stanslaus NF	Presidency
Mount Adams Wilderness	1964	42,411	Gifford Pinchot NF	Presidency
Mount Hood Wilderness	1964	14,160	Mt. Hood NF	Presidency
Mount Washington Wilderness	1964	46,655	Deschutes NF/Williamette NF	Presidency
Mount Zirkel Wilderness	1964	72,180	Medicine Bow-Routt NF	Presidency
Mountain Lakes Wilderness	1964	23,071	Fremont-Winema NF	Presidency
North Absaroka Wilderness	1964	359,700	Shoshone NF	Presidency
Pecos Wilderness	1964	165,000	Carson NF/Santa Fe NF	Presidency

Rawah Wilderness	1964	25,579	Arapaho and Roosevelt NF/Medicine Bow-Routt NF	Presidency
San Gorgonio Wilderness	1964	33,898	San Bernardino NF	Presidency
San Jacinto Wilderness	1964	20,565	San Bernardino NF	Presidency
San Pedro Parks Wilderness	1964	41,132	Santa Fe NF	Presidency
Selway-Bitterroot Wilderness	1964	1,239,840	Bitterroot NF/Nez Perce-Clearwater NF/Lolo NF	Presidency
Shining Rock Wilderness	1964	13,400	Pisgah NF	Presidency
Sierra Ancha Wilderness	1964	20,850	Tonto NF	Presidency
South Warner Wilderness	1964	68,507	Modoc NF	Presidency
Strawberry Mountain Wilderness	1964	33,004	Malheur NF	Presidency
Superstition Wilderness	1964	124,140	Tonto NF	Presidency
Teton Wilderness	1964	563,460	Bridger-Teton NF/Shoshone NF	Presidency
Thousand Lakes Wilderness	1964	15,695	Lassen NF	Presidency
Three Sisters Wilderness	1964	196,708	Deschutes NF/Williamette NF	Presidency
Washakie Wilderness	1964	505,552	Shoshone NF	Presidency
West Elk Wilderness	1964	62,000	Grand Mesa, Uncompahgre, and Gunnison NFs	Presidency
Wheeler Peak Wilderness	1964	6,051	Carson NF	Presidency
White Mountain Wilderness	1964	28,118	Lincoln NF	Presidency
Yolla Bolly-Middle Eel Wilderness	1964	109,051	Mendocino NF/Shasta-Trinity NF/Six Rivers NF	Presidency
Great Swamp National Wildlife Refuge Wilderness	1968	3,750	Great Swamp NWR	Congress

Mount Jefferson Wilderness	1968	100,000	Deschutes NF/Williamette NF	Presidency
Pasayten Wilderness	1968	510,000	Okanogan-Wenatchee NF	Presidency
San Gabriel Wilderness	1968	36,000	Angeles NF	Presidency
San Rafael Wilderness	1968	143,000	Los Padres NF	Presidency
Desolation Wilderness	1969	63,500	Eldorado NF/Lake Tahoe Basin Management Unit	Presidency
Ventana Wilderness (CA)	1969	98,000	Los Padres NF	Presidency
Bering Sea Wilderness	1970	41,113	Alaska Maritime NWR	Presidency
Bogoslof Wilderness	1970	390	Alaska Maritime NWR	Presidency
Craters of the Moon National Wilderness Area	1970	43,243	Craters of the Moon NM	Presidency
Forrester Island Wilderness	1970	2,630	Alaska Maritime NWR	Presidency
Hazy Islands Wilderness	1970	42	Alaska Maritime NWR	Presidency
Huron Islands Wilderness	1970	147	Huron NWR	Presidency
Island Bay Wilderness	1970	20	Island Bay NWR	Presidency
Michigan Islands Wilderness	1970	12	Michigan Islands NWR	Administrative
Monomoy Wilderness	1970	2,340	Monomoy NWR	Administrative
Moosehorn Wilderness	1970	2,782	Moosehorn NWR	Presidency
Mount Baldy Wilderness	1970	7,000	Apache-Sitgreaves NF	Presidency
Oregon Islands Wilderness	1970	21	Oregon Islands NWR	Presidency
Passage Key Wilderness	1970	20	Passage Key NWR	Presidency
Pelican Island Wilderness	1970	3	Pelican Island NWR	Presidency

Petrified Forest National Wilderness Area	1970	50,260	Petrified Forest NP	Presidency
Saint Lazaria Wilderness	1970	62	Alaska Maritime NWR	Presidency
Salt Creek Wilderness	1970	8,500	Bitter Lake NWR	Presidency
Seney Wilderness	1970	25,150	Seney NWR	Presidency
Three Arch Rocks Wilderness	1970	17	Three Arch Rocks NWR	Presidency
Tuxedni Wilderness	1970	6,402	Alaska Maritime NWR	Presidency
Washington Islands Wilderness	1970	49	Copalis NWR/Flattery Rocks NWR/Quillayute Needles NWR	Presidency
Wichita Mountains Wilderness	1970	8,900	Wichita Mountains NWR	Congress
Wisconsin Islands Wilderness	1970	29	Gravel Island NWR/Green Bay NWR	Presidency
Cedar Keys Wilderness	1972	375	Cedar Keys NWR	Presidency
Lassen Volcanic Wilderness	1972	78,982	Lassen Volcanic NP	Presidency
Lava Beds Wilderness	1972	28,460	Lava Beds NM	Presidency
Pine Mountain Wilderness	1972	19,500	Prescott NF/Tonto NF	Presidency
Sawtooth Wilderness and Recreation Area	1972	217,700	Boise NF/Sawtooth NF	Presidency
Scapegoat Wilderness	1972	240,000	Helena NF/Lewis and Clark NF/Lolo NF	Presidency
Sycamore Canyon Wilderness	1972	48,500	Coconino NF/Kaibab NF/Prescott NF	Presidency
Farallon Wilderness	1974	141	Farallon NWR	Presidency
Okefenokee Wilderness	1974	343,850	Okefenokee NWR	Presidency
Agua Tibia Wilderness	1975	16,971	Cleveland NF	Presidency
Beaver Creek Wilderness	1975	5,500	Daniel Boone NF	Presidency

Blackbeard Island Wilderness	1975	3,000	Blackbeard Island NWR	Presidency
Bosque del Apache Wilderness	1975	30,850	Bosque del Apache NWR	Presidency
Bradwell Bay Wilderness	1975	22,000	Apalachicola NF	Presidency
Breton Wilderness	1975	5,000	Breton NWR	Presidency
Brigantine Wilderness	1975	6,603	Edwin B. Forsythe NWR	Administrative
Bristol Cliffs Wilderness	1975	6,500	Green Mountain and Finger Lakes NFs	Presidency
Caney Creek Wilderness	1975	14,433	Ouachita NF	Presidency
Cape Romain Wilderness	1975	28,000	Cape Romain NWR	Administrative
Chamisso Wilderness	1975	455	Alaska Maritime NWR	Presidency
Chase Lake Wilderness	1975	4,155	Chase Lake NWR	Presidency
Cohutta Wilderness	1975	34,500	Chattahoochee-Oconee NF/Cherokee NF	Presidency
Dolly Sods Wilderness	1975	10,215	Monongahela NF	Presidency
Ellicott Rock Wilderness	1975	3,600	Chattahoochee-Oconee NF/Nantahala NF/Francis Marion and Sumter NFs	Presidency
Emigrant Wilderness	1975	106,910	Stanislaus NF	Presidency
Flat Tops Wilderness	1975	235,230	Medicine Bow-Routt NF/White River NF	Presidency
Florida Keys Wilderness	1975	4,740	Great White Heron NWR/Key West NWR/National Key Deer Refuge	Mixed
Gee Creek Wilderness	1975	2,570	Cherokee NF	Presidency
Hells Canyon Wilderness (ID/OR)	1975	192,200	Wallowa-Whitman NF	Presidency
James River Face	1975	8,800	George	Presidency

Wilderness			Washington and Jefferson NFs	
Joyce Kilmer-Slickrock Wilderness	1975	15,000	Nantahala NF/Cherokee NF	Presidency
Lostwood Wilderness	1975	5,577	Lostwood NWR	Presidency
Lye Brook Wilderness	1975	14,300	Green Mountain and Finger Lakes NFs	Presidency
Mission Mountains Wilderness	1975	75,588	Flathead NF	Presidency
Moosehorn (Baring Unit) Wilderness	1975	4,719	Moosehorn NWR	Presidency
Otter Creek Wilderness	1975	20,000	Monongahela NF	Presidency
Presidential Range-Dry River Wilderness	1975	20,380	White Mountain NF	Presidency
Rainbow Lake Wilderness	1975	6,600	Chequamegon-Nicolet NF	Presidency
Sipsey Wilderness	1975	12,000	Bankhead NF	Congress
St. Marks Wilderness	1975	17,746	St. Mark's NWR	Presidency
Upper Buffalo Wilderness	1975	10,590	Ozark-St. Francis NF	Presidency
Weminuche Wilderness	1975	405,031	Rio Grande NF/San Juan NF	Presidency
West Sister Island Wilderness	1975	85	West Sister Island NWR	Presidency
Wolf Island Wilderness	1975	5,126	Wolf Island NWR	Presidency
Agassiz Wilderness	1976	4,000	Agassiz NWR	Presidency
Alpine Lakes Wilderness	1976	305,400	Mt. Baker-Snoqualmie NF/Okanogan-Wenatchee NF	Presidency
Badlands Wilderness	1976	64,250	Badlands NP	Congress
Bandelier Wilderness	1976	23,267	Bandelier NM	Presidency
Big Lake Wilderness	1976	2,600	Big Lake NWR	Presidency
Black Canyon of the Gunnison Wilderness	1976	11,180	Black Canyon of the Gunnison NP	Presidency
Chassahowitzka Wilderness	1976	23,360	Chassahowitzka NWR	Administrative
Chiricahua National Monument Wilderness	1976	9,440	Chiricahua NM	Presidency

Crab Orchard Wilderness	1976	4,050	Crab Orchard NWR	Congress
Eagles Nest Wilderness	1976	133,910	White River NF	Presidency
Fitzpatrick Wilderness*	1976	191,103	Shoshone NF	Presidency
Fort Niobrara Wilderness	1976	4,635	Fort Niobrara NWR	Presidency
Great Sand Dunes Wilderness	1976	33,450	Great Sand Dunes NP	Presidency
Hain Wilderness	1976	12,952	Pinnacles NP	Presidency
Haleakala Wilderness	1976	19,270	Haleakala NP	Congress
Hercules-Glades Wilderness	1976	12,315	Mark Twain NF	Presidency
Isle Royale Wilderness	1976	131,880	Isle Royale NP	Congress
J.N. "Ding" Darling Wilderness	1976	2,825	J.N. "Ding" Darling NWR	Administrative
Joshua Tree Wilderness	1976	429,690	Joshua Tree NP	Presidency
Kaiser Wilderness	1976	22,500	Sierra NF	Presidency
Lacassine Wilderness	1976	3,300	Lacassine NWR	Presidency
Lake Woodruff Wilderness	1976	1,146	Lake Woodruff NWR	Administrative
Medicine Lake Wilderness	1976	11,366	Medicine Lake NWR	Presidency
Mesa Verde Wilderness	1976	8,100	Mesa Verde NP	Congress
Mingo Wilderness	1976	8,000	Mingo NWR	Administrative
Phillip Burton Wilderness	1976	26,025	Point Reyes National Seashore	Congress
Red Rock Lakes Wilderness	1976	32,350	Red Rock Lakes NWR	Presidency
Saguaro Wilderness	1976	71,400	Saguaro NP	Presidency
San Juan Wilderness	1976	350	San Juan Islands NWR	Presidency
Shenandoah Wilderness	1976	79,019	Shenandoah NP	Congress
Simeonof Wilderness	1976	25,141	Alaska Maritime NWR	Administrative
Swanquarter Wilderness	1976	9,000	Swanquarter NWR	Administrative
Tamarac Wilderness	1976	2,138	Tamarac NWR	Presidency

UL Bend Wilderness	1976	20,890	UL Bend NWR	Administrative
Absaroka-Beartooth Wilderness	1978	904,500	Custer NF/Gallatin NF/Shoshone NF	Presidency
Blackjack Springs Wilderness	1978	5,886	Chequamegon-Nicolet NF	Presidency
Buffalo National River Wilderness	1978	10,529	Buffalo National River	Congress
Carlsbad Caverns Wilderness	1978	33,125	Carlsbad Caverns NP	Presidency
Chama River Canyon Wilderness	1978	50,300	Carson NF/Santa Fe NF	Presidency
Golden Trout Wilderness	1978	306,000	Inyo NF/Sequoia NF	Presidency
Gospel-Hump Wilderness	1978	206,000	Nez Perce-Clearwater NF	Presidency
Great Bear Wilderness	1978	285,771	Flathead NF	Presidency
Guadalupe Mountains Wilderness	1978	46,850	Guadalupe Mountains NP	Congress
Gulf Islands Wilderness	1978	1,800	Gulf Islands National Seashore	Congress
Hawaii Volcanoes Wilderness	1978	123,100	Hawaii Volcanoes NP	Congress
Hunter-Fryingpan Wilderness	1978	8,330	White River NF	Presidency
Indian Peaks Wilderness	1978	70,000	Arapaho and Roosevelt NF/Rocky Mountain NP	Presidency
Lone Peak Wilderness	1978	29,500	Uinta-Wasatch-Cache NF	Presidency
Manzano Mountain Wilderness	1978	37,000	Cibola NF	Presidency
Marjory Stoneman Douglas Wilderness	1978	1,296,500	Everglades NP	Congress
Organ Pipe Cactus Wilderness	1978	312,600	Organ Pipe Cactus NM	Presidency
Pusch Ridge Wilderness	1978	56,430	Coronado NF	Presidency
Sandia Mountain Wilderness	1978	30,930	Cibola NF	Presidency
Santa Lucia	1978	21,250	Los Padres NF	Presidency

Wilderness				
Savage Run Wilderness	1978	14,940	Medicine Bow-Routt NF	Presidency
Theodore Roosevelt Wilderness	1978	29,920	Theodore Roosevelt NP	Congress
Welcome Creek Wilderness	1978	28,440	Lolo NF	Presidency
Wenaha-Tucannon Wilderness	1978	180,000	Umatilla NF	Presidency
Whisker Lake Wilderness	1978	7,315	Chequamegon-Nicolet NF	Presidency
Wild Rogue Wilderness	1978	36,700	Rogue River-Siskiyou NF	Presidency
Aldo Leopold Wilderness	1980	211,300	Gila NF	Presidency
Aleutian Islands Wilderness	1980	1,300,000	Alaska Maritime NWR	Presidency
Andreafsky Wilderness	1980	1,300,000	Yukon Delta NWR	Presidency
Apache Kid Wilderness	1980	45,000	Cibola NF	Presidency
Becharof Wilderness	1980	400,000	Becharof NWR	Congress
Bell Mountain Wilderness	1980	8,530	Mark Twain NF	Presidency
Black Elk Wilderness	1980	10,700	Black Hills NF	Presidency
Blue Range Wilderness	1980	30,000	Gila NF	Presidency
Cache La Poudre Wilderness	1980	9,400	Arapaho and Roosevelt NF	Presidency
Capitan Mountains Wilderness	1980	34,000	Lincoln NF	Presidency
Collegiate Peaks Wilderness	1980	159,900	Gunnison NF/Pike and San Isabel NFs/White River NF	Presidency
Comanche Peak Wilderness	1980	67,500	Arapaho and Roosevelt NF	Presidency
Coronation Island Wilderness	1980	19,122	Tongass NF	Presidency
Cruces Basin Wilderness	1980	18,000	Carson NF	Presidency
Denali Wilderness	1980	1,900,000	Denali NP	Presidency
Devils Backbone Wilderness	1980	6,800	Mark Twain NF	Presidency

Dome Wilderness	1980	5,200	Santa Fe NF	Presidency
Endicott River Wilderness	1980	94,000	Tongass NF	Presidency
Frank Church-River of No Return Wilderness	1980	2,239,000	Bitterroot NF/Boise NF/Nez Perce-Clearwater NF/PayetteNF/Salmon-Challis NF/Coeur d'Alene Field Office	Presidency
Gates of the Arctic Wilderness	1980	7,052,000	Gates of the Arctic NP	Presidency
Glacier Bay Wilderness	1980	2,770,000	Glacier Bay NP	Presidency
Hell Hole Bay Wilderness	1980	1,980	Francis Marion and Sumter NFs	Presidency
Holy Cross Wilderness	1980	126,000	Pike and San Isabel NFs/White River NFs	Presidency
Innoko Wilderness	1980	1,240,000	Innoko NWR	Congress
Izembek Wilderness	1980	300,000	Izembek NWR	Administrative
Katmai Wilderness	1980	3,473,000	Katmai NP	Presidency
Kenai Wilderness	1980	1,350,000	Kenai NWR	Presidency
Kisatchie Hills Wilderness	1980	8,700	Kisatchie NF	Presidency
Kobuk Valley Wilderness	1980	190,000	Kobuk Valley NP	Presidency
Kootznoowoo Wilderness	1980	900,000	Tongass NF	Presidency
Koyukuk Wilderness	1980	400,000	Koyukuk NWR	Congress
Lake Clark Wilderness	1980	2,470,000	Lake Clark NP	Presidency
Latir Peak Wilderness	1980	20,000	Carson NF	Presidency
Little Wambaw Swamp Wilderness	1980	5,000	Francis Marion and Sumter NFs	Presidency
Lizard Head Wilderness	1980	40,000	Grand Mesa, Uncompahgre, and Gunnison NFs/San Juan NF	Presidency
Lost Creek Wilderness	1980	106,000	Pike and San Isabel NFs	Presidency
Maurille Islands Wilderness	1980	4,424	Tongass NF	Presidency

Misty Fjords National Monument Wilderness	1980	2,136,000	Tongass NF	Presidency
Mollie Beattie Wilderness	1980	8,000,000	Arctic NWR	Administrative
Mount Evans Wilderness	1980	73,000	Arapaho and Roosevelt NF/Pike and San Isabel NFs	Presidency
Mount Massive Wilderness	1980	26,000	Pike and San Isabel NFs/Leadville National Fish Hatchery	Presidency
Mount Sneffels Wilderness	1980	16,200	Grand Mesa, Uncompahgre, and Gunnison NFs	Presidency
Neota Wilderness	1980	9,900	Arapaho and Roosevelt NF/Medicine Bow-Routt NF	Presidency
Never Summer Wilderness	1980	14,100	Arapaho and Roosevelt NF/Medicine Bow-Routt NF	Presidency
Noatak Wilderness	1980	5,800,000	Noatak NP	Congress
Nunivak Wilderness	1980	600,000	Yukon Delta NWR	Presidency
Otis Pike Fire Island High Dune Wilderness	1980	1,363	Fire Island National Seashore	Congress
Petersburg Creek-Duncan Salt Chuck Wilderness	1980	50,000	Tongass NF	Presidency
Piney Creek Wilderness	1980	8,400	Mark Twain NF	Presidency
Raggeds Wilderness	1980	68,000	Grand Mesa, Uncompahgre, and Gunnison NFs/White River NF	Presidency
Rattlesnake Wilderness	1980	33,000	Lolo NF	Presidency
Rockpile Mountain	1980	3,920	Mark Twain NF	Presidency

Wilderness				
Russell Fjord Wilderness	1980	307,000	Tongass NF	Presidency
Selawik Wilderness	1980	240,000	Selawik NWR	Congress
Semidi Wilderness	1980	250,000	Alaska Maritime NWR	Presidency
South Baranof Wilderness	1980	314,000	Tongass NF	Presidency
South Prince of Wales Wilderness	1980	97,000	Tongass NF	Presidency
South San Juan Wilderness	1980	130,000	Rio Grande NF/San Juan NF	Presidency
Stikine-LeConte Wilderness	1980	443,000	Tongass NF	Presidency
Tebenkof Bay Wilderness	1980	65,000	Tongass NF	Presidency
Togiak Wilderness	1980	2,270,000	Togiak NWR	Congress
Tracy Arm-Fords Terror Wilderness	1980	656,000	Tongass NF	Presidency
Uncompahgre Wilderness	1980	97,700	Grand Mesa, Uncompahgre, and Gunnison NFs	Presidency
Unimak Wilderness	1980	910,000	Alaska Maritime NWR	Presidency
Wambaw Creek Wilderness	1980	1,640	Francis Marion and Sumter NFs	Presidency
Wambaw Swamp Wilderness	1980	5,000	Francis Marion and Sumter NFs	Presidency
Warren Island Wilderness	1980	11,353	Tongass NF	Presidency
West Chichagof-Yakobi Wilderness	1980	265,000	Tongass NF	Presidency
Withington Wilderness	1980	19,000	Cibola NF	Presidency
Wrangell-Saint Elias Wilderness	1980	8,700,000	Wrangell-St. Elias NP	Presidency
Charles C. Deam Wilderness	1982	12,953	Hoosier NF	Congress
Cumberland Island Wilderness	1982	8,840	Cumberland Island National Seashore	Congress
Cheaha Wilderness	1983	6,780	Talladega NF	Presidency
Cranberry	1983	35,600	Monongahela NF	Presidency

Wilderness				
Laurel Fork North Wilderness	1983	6,100	Monongahela NF	Presidency
Laurel Fork South Wilderness	1983	6,100	Monongahela NF	Presidency
Lee Metcalf Wilderness	1983	259,000	Beaverhead-Deerlodge NF/Gallatin NF/Dillion Field Office	Mixed
Paddy Creek Wilderness	1983	6,888	Mark Twain NF	Presidency
Alexander Springs Wilderness	1984	7,700	Ocala NF	Presidency
Allegheny Islands Wilderness	1984	368	Allegheny NF	Presidency
Apache Creek Wilderness	1984	5,420	Prescott NF	Presidency
Aravaipa Canyon Wilderness	1984	6,670	Safford Field Office	Congress
Ashdown Gorge Wilderness	1984	7,000	Dixie NF	Presidency
Badger Creek Wilderness	1984	24,000	Mt. Hood NF	Presidency
Bald River Gorge Wilderness	1984	3,887	Cherokee NF	Presidency
Bear Wallow Wilderness	1984	11,080	Apache-Sitgreaves NF	Presidency
Beartown Wilderness	1984	6,375	George Washington and Jefferson NFs	Presidency
Beaver Dam Mountains Wilderness	1984	19,600	Vermillion Cliffs NM/Arizona Strip Field Office/Kanab Field Office	Mixed
Big Branch Wilderness	1984	6,720	Green Mountain and Finger Lakes NFs	Presidency
Big Frog Wilderness	1984	5,055	Chattahoochee-Oconee NF/Cherokee NF	Presidency
Big Gum Swamp Wilderness	1984	13,600	Osceola NF	Presidency
Big Slough	1984	3,000	Davy Crockett	Presidency

Wilderness			NF	
Billies Bay Wilderness	1984	3,120	Ocala NF	Presidency
Birkhead Mountains Wilderness	1984	4,790	Uwharrie NF	Congress
Bisti/De-Na-Zin Wilderness	1984	27,840	Farmington Field Office	Congress
Black Canyon Wilderness (OR)	1984	13,400	Ochoco NF	Presidency
Black Creek Wilderness	1984	4,560	Desoto NF	Presidency
Black Fork Mountain Wilderness	1984	7,568	Ouachita NF	Presidency
Boulder Creek Wilderness	1984	19,100	Umpqua NF	Presidency
Boulder River Wilderness	1984	49,000	Umpqua NF	Presidency
Box-Death Hollow Wilderness	1984	26,000	Dixie NF	Presidency
Breadloaf Wilderness	1984	21,480	Green Mountain and Finger Lakes NFs	Presidency
Bridge Creek Wilderness	1984	5,400	Ochoco NF	Presidency
Buckhorn Wilderness	1984	45,817	Olympic NF	Presidency
Bucks Lake Wilderness	1984	21,000	Plumas NF	Presidency
Bull of the Woods Wilderness	1984	34,900	Mt. Hood NF/Williamette NF	Presidency
Carson-Iceberg Wilderness	1984	160,000	Humboldt-Toiyabe NF/Stanslaus NF	Presidency
Castle Crags Wilderness	1984	7,300	Shasta-Trinity NF	Presidency
Castle Creek Wilderness	1984	26,030	Prescott NF	Presidency
Catfish Lake South Wilderness	1984	7,600	Croatan NF	Presidency
Cedar Bench Wilderness	1984	14,950	Prescott NF/Tonto NF	Presidency
Chancelulla Wilderness	1984	8,200	Shasta-Trinity NF	Presidency
Citico Creek	1984	16,000	Cherokee NF	Presidency

Wilderness				
Clearwater Wilderness	1984	14,300	Mt. Baker-Snoqualmie NF	Presidency
Cloud Peak Wilderness	1984	195,500	Bighorn NF	Presidency
Colonel Bob Wilderness	1984	12,120	Olympic NF	Presidency
Cottonwood Point Wilderness	1984	6,500	Vermillion Cliffs NM	Presidency
Cummins Creek Wilderness	1984	9,300	Siuslaw NF	Presidency
Dark Canyon Wilderness	1984	45,000	Manti-Lasal NF	Congress
Deseret Peak Wilderness	1984	25,500	Uinta-Wasatch-Cache NF	Presidency
Dick Smith Wilderness	1984	64,700	Los Padres NF	Presidency
Dinkey Lakes Wilderness	1984	30,000	Sierra NF	Presidency
Drift Creek Wilderness	1984	5,800	Siuslaw NF	Presidency
Dry Creek Wilderness	1984	6,310	Ouachita NF	Presidency
East Fork Wilderness	1984	10,777	Ozark-St. Francis NF	Presidency
Encampment River Wilderness	1984	10,400	Medicine Bow-Routt NF	Presidency
Escudilla Wilderness	1984	5,200	Apache-Sitgreaves NF	Presidency
Flatside Wilderness	1984	10,105	Ouachita NF	Presidency
Fossil Springs Wilderness	1984	11,550	Coconino NF	Presidency
Four Peaks Wilderness	1984	53,500	Tonto NF	Presidency
George D. Aiken Wilderness	1984	5,060	Green Mountain and Finger Lakes NFs	Presidency
Glacier View Wilderness	1984	3,050	Gifford Pinchot NF	Presidency
Grand Wash Cliffs Wilderness	1984	36,300	Grand Canyon-Parashant NM	Presidency
Granite Chief Wilderness	1984	25,000	Lake Tahoe Basin Management Unit/ Tahoe NF	Presidency

Granite Mountain Wilderness (AZ)	1984	9,800	Prescott NF	Presidency
Grassy Knob Wilderness	1984	17,200	Rogue River-Siskiyou NF	Presidency
Gros Ventre Wilderness	1984	287,000	Bridger-Teton NF	Presidency
Hauser Wilderness	1984	8,000	Cleveland NF	Presidency
Headwaters Wilderness	1984	20,104	Chequamegon-Nicolet NF	Presidency
Hellsgate Wilderness	1984	36,780	Tonto NF	Presidency
Henry M. Jackson Wilderness	1984	103,591	Mt. Baker-Snoqualmie NF/Okanogan-Wenatchee NF	Presidency
Hickory Creek Wilderness	1984	9,337	Allegheny NF	Presidency
High Uintas Wilderness	1984	460,000	Ashley NF/Uinta-Wasatch-Cache NF	Presidency
Hurricane Creek Wilderness	1984	15,177	Ozark-St. Francis NF	Presidency
Huston Park Wilderness	1984	31,300	Medicine Bow-Routt NF	Presidency
Indian Heaven Wilderness	1984	20,650	Gifford Pinchot NF	Presidency
Indian Mounds Wilderness	1984	9,946	Sabine NF	Presidency
Irish Wilderness	1984	16,500	Mark Twain NF	Presidency
Ishi Wilderness	1984	41,840	Lassen NF	Mixed
Jedediah Smith Wilderness	1984	116,535	Caribou-Targhee NF	Presidency
Jennie Lakes Wilderness	1984	10,500	Sequoia NF	Presidency
Juniper Dunes Wilderness	1984	7,140	Border Field Office	Congress
Juniper Mesa Wilderness	1984	7,600	Prescott NF	Presidency
Juniper Prairie Wilderness	1984	13,260	Ocala NF	Presidency
Kachina Peaks Wilderness	1984	18,200	Coconino NF	Presidency
Kanab Creek Wilderness	1984	77,100	Kaibab NF/Vermillion Cliffs NM	Presidency

Kendrick Mountain Wilderness	1984	6,510	Coconino NF/Kaibab NF	Presidency
Kimberling Creek Wilderness	1984	5,580	George Washington and Jefferson NFs	Presidency
Lake Chelan-Sawtooth Wilderness	1984	158,833	Okanogan-Wenatchee NF	Presidency
Leaf Wilderness	1984	940	Desoto NF	Presidency
Leatherwood Wilderness	1984	16,956	Ozark-St. Francis NF	Presidency
Lewis Fork Wilderness	1984	5,730	George Washington and Jefferson NFs	Presidency
Little Dry Run Wilderness	1984	3,400	George Washington and Jefferson NFs	Presidency
Little Lake Creek Wilderness	1984	4,000	Sam Houston NF	Presidency
Little Lake George Wilderness	1984	2,500	Ocala NF	Presidency
Little Wilson Creek Wilderness	1984	3,855	George Washington and Jefferson NFs	Presidency
Machesna Mountain Wilderness	1984	20,000	Los Padres NF	Presidency
Mark O. Hatfield Wilderness	1984	39,000	Columbia River Gorge National Scenic Area/Mt. Hood NF	Presidency
Menagerie Wilderness	1984	4,800	Williamette NF	Presidency
Middle Prong Wilderness	1984	7,900	Pisgah NF	Presidency
Middle Santiam Wilderness	1984	7,500	Williamette NF	Presidency
Mill Creek Wilderness	1984	17,400	Ochoco NF	Presidency
Miller Peak Wilderness	1984	20,190	Coronado NF	Presidency
Monarch Wilderness	1984	45,000	Sequoia NF/Sierra NF	Presidency
Monument Rock Wilderness	1984	19,800	Malheur NF/Wallowa-Whitman NF	Presidency
Mount Baker	1984	117,900	Mt. Baker-	Presidency

Wilderness			Snoqualmie NF	
Mount Logan Wilderness	1984	14,600	Grand Canyon-Parashant NM	Presidency
Mount Naomi Wilderness	1984	44,350	Uinta-Wasatch-Cache NF	Presidency
Mount Nebo Wilderness	1984	28,000	Uinta-Wasatch-Cache NF	Presidency
Mount Olympus Wilderness	1984	16,000	Uinta-Wasatch-Cache NF	Presidency
Mount Skokomish Wilderness	1984	15,686	Olympic NF	Presidency
Mount Thielsen Wilderness	1984	55,100	Deschutes NF/Fremont-Winema NF/Umpqua NF	Presidency
Mount Timpanogos Wilderness	1984	10,750	Uinta-Wasatch-Cache NF	Presidency
Mount Trumbull Wilderness	1984	7,900	Grand Canyon-Parashant NM	Presidency
Mountain Lake Wilderness	1984	8,253	George Washington and Jefferson NFs	Presidency
Mt. Shasta Wilderness	1984	37,000	Shasta-Trinity NF	Presidency
Mt. Wrightson Wilderness	1984	25,260	Coronado NF	Presidency
Mud Swamp/New River Wilderness	1984	7,800	Apalachicola NF	Presidency
Munds Mountain Wilderness	1984	18,150	Coconino NF	Presidency
Noisy-Diobsud Wilderness	1984	14,300	Mt. Baker-Snoqualmie NF	Presidency
Norse Peak Wilderness	1984	50,923	Mt. Baker-Snoqualmie NF/Okanogan-Wenatchee NF	Presidency
North Fork John Day Wilderness	1984	121,400	Umatilla NF/Wallowa-Whitman NF	Presidency
North Fork Umatilla Wilderness	1984	20,200	Umatilla NF	Presidency
North Fork Wilderness	1984	8,100	Six Rivers NF	Presidency
Paiute Wilderness	1984	84,700	Grand Canyon-Parashant NM	Presidency

Pajarita Wilderness	1984	7,420	Coronado NF	Presidency
Paria Canyon-Vermilion Cliffs Wilderness	1984	110,000	Vermillion Cliffs NM/Arizona Strip Field Office/Kanab Field Office	Mixed
Pemigewasset Wilderness	1984	45,000	White Mountain NF	Presidency
Peru Peak Wilderness	1984	6,920	Green Mountain and Finger Lakes NFs	Presidency
Peters Mountain Wilderness	1984	3,326	George Washington and Jefferson NFs	Presidency
Pine Creek Wilderness	1984	13,100	Cleveland NF	Presidency
Pine Valley Mountain Wilderness	1984	50,000	Dixie NF	Presidency
Platte River Wilderness	1984	23,000	Medicine Bow-Routt NF	Presidency
Pocosin Wilderness	1984	11,000	Croatan NF	Presidency
Pond Pine Wilderness	1984	1,860	Croatan NF	Presidency
Popo Agie Wilderness	1984	101,991	Shoshone NF	Presidency
Porcupine Lake Wilderness	1984	4,235	Chequamegon-Nicolet NF	Presidency
Poteau Mountain Wilderness	1984	10,884	Ouachita NF	Presidency
Ramseys Draft Wilderness	1984	6,725	George Washington and Jefferson NFs	Presidency
Red Buttes Wilderness	1984	3,400	Klamath NF/Rogue River-Siskiyou NF	Presidency
Red Rock-Secret Mountain Wilderness	1984	43,950	Coconino NF	Presidency
Richland Creek Wilderness	1984	11,822	Ozark-St. Francis NF	Presidency
Rincon Mountain Wilderness	1984	38,590	Coronado NF	Presidency
Rock Creek Wilderness	1984	7,400	Siuslaw NF	Presidency

Rogue-Umpqua Divide Wilderness	1984	33,200	Rogue River-Siskiyou NF/Umpqua NF	Presidency
Russian Wilderness	1984	12,000	Klamath NF	Presidency
Saddle Mountain Wilderness	1984	40,600	Kaibab NF	Presidency
Saint Mary's Wilderness	1984	10,090	George Washington and Jefferson NFs	Presidency
Salmon-Huckleberry Wilderness	1984	44,600	Mt. Hood NF	Presidency
Salmo-Priest Wilderness	1984	41,335	Colville NF/Idaho Panhandle NF	Presidency
Salome Wilderness	1984	18,950	Tonto NF	Presidency
Salt River Canyon Wilderness	1984	32,800	Tonto NF	Presidency
San Mateo Canyon Wilderness	1984	39,540	Cleveland NF	Presidency
Sandwich Range Wilderness	1984	25,000	White Mountain NF	Presidency
Santa Rosa Wilderness	1984	20,160	San Bernardino NF	Presidency
Santa Teresa Wilderness	1984	26,780	Coronado NF	Presidency
Sequoia-Kings Canyon Wilderness	1984	736,980	Sequoia and Kings Canyon NP	Congress
Sheep Mountain Wilderness	1984	43,600	Angeles NF/San Bernardino NF	Presidency
Sheep Ridge Wilderness	1984	9,540	Croatan NF	Presidency
Siskiyou Wilderness	1984	153,000	Klamath NF/Rogue River-Siskiyou NF/Six Rivers NF	Presidency
Sky Lakes Wilderness	1984	116,300	Fremont-Winema NF/Rogue River-Siskiyou NF	Presidency
Snow Mountain Wilderness	1984	37,000	Mendocino NF	Presidency
South Sierra Wilderness	1984	63,000	Inyo NF/Sequoia NF	Presidency
Southern Nantahala Wilderness	1984	23,339	Chattahoochee-Oconee NF/Nantahala NF	Presidency

Strawberry Crater Wilderness	1984	10,140	Coconino NF	Presidency
Table Rock Wilderness	1984	5,500	Cascades Field Office	Congress
Tatoosh Wilderness	1984	15,720	Gifford Pinchot NF	Presidency
The Brothers Wilderness	1984	17,239	Olympic NF	Presidency
Thunder Ridge Wilderness	1984	2,450	George Washington and Jefferson NFs	Presidency
Trapper Creek Wilderness	1984	6,050	Gifford Pinchot NF	Presidency
Trinity Alps Wilderness	1984	500,000	Klamath NF/Shasta-Trinity NF/Six Rivers NF	Presidency
Turkey Hill Wilderness	1984	5,400	Angelina NF	Presidency
Twin Peaks Wilderness	1984	13,100	Uinta-Wasatch-Cache NF	Presidency
Upland Island Wilderness	1984	12,000	Angelina NF	Presidency
Waldo Lake Wilderness	1984	39,200	Williamette NF	Presidency
Wellsville Mountain Wilderness	1984	23,850	Uinta-Wasatch-Cache NF	Presidency
West Clear Creek Wilderness	1984	13,600	Coconino NF	Presidency
Wet Beaver Wilderness	1984	6,700	Coconino NF	Presidency
William O. Douglas Wilderness	1984	166,603	Gifford Pinchot NF/Okanogan-Wenatchee NF	Presidency
Winegar Hole Wilderness	1984	14,000	Caribou-Targhee NF	Presidency
Wonder Mountain Wilderness	1984	2,320	Olympic NF	Presidency
Woodchute Wilderness	1984	5,600	Prescott NF	Presidency
Yosemite Wilderness	1984	677,600	Yosemite NP	Congress
Clifty Wilderness	1985	13,300	Daniel Boone NF	Presidency
Big Laurel Branch Wilderness	1986	6,251	Cherokee NF	Presidency
Brasstown Wilderness	1986	1,160	Chattahoochee-Oconee NF	Presidency

Little Frog Mountain Wilderness	1986	4,800	Cherokee NF	Presidency
Pond Mountain Wilderness	1986	6,665	Cherokee NF	Presidency
Raven Cliffs Wilderness	1986	8,562	Chattahoochee-Oconee NF	Presidency
Rich Mountain Wilderness	1986	9,649	Chattahoochee-Oconee NF	Presidency
Sampson Mountain Wilderness	1986	8,319	Cherokee NF	Presidency
Soldier Creek Wilderness	1986	8,100	Nebraska NF	Presidency
Tray Mountain Wilderness	1986	9,702	Chattahoochee-Oconee NF	Presidency
Unaka Mountain Wilderness	1986	4,700	Cherokee NF	Presidency
Big Island Lake Wilderness	1987	5,500	Hiawatha NF	Presidency
Cebolla Wilderness	1987	60,000	Rio Puerco Field Office	Congress
Delirium Wilderness	1987	11,870	Hiawatha NF	Presidency
Horseshoe Bay Wilderness	1987	3,790	Hiawatha NF	Presidency
Mackinac Wilderness	1987	12,230	Hiawatha NF	Presidency
McCormick Wilderness	1987	16,850	Ottawa NF	Presidency
Nordhouse Dunes Wilderness	1987	3,450	Huron Manistee NF	Presidency
Rock River Canyon Wilderness	1987	4,640	Hiawatha NF	Presidency
Round Island Wilderness	1987	378	Hiawatha NF	Presidency
Sturgeon River Gorge Wilderness	1987	14,500	Ottawa NF	Presidency
Sylvania Wilderness	1987	18,327	Ottawa NF	Presidency
West Malpais Wilderness	1987	38,210	Rio Puerco Field Office	Congress
Barbours Creek Wilderness	1988	5,700	George Washington and Jefferson NFs	Presidency
Congaree National Park Wilderness	1988	15,010	Congaree NP	Congress
Mount Rainier Wilderness	1988	216,855	Mount Rainier NP	Congress

Mountain Lake Wilderness	1988	2,500	George Washington and Jefferson NFs	Presidency
Olympic Wilderness	1988	876,669	Olympic NP	Presidency
Rich Hole Wilderness	1988	6,450	George Washington and Jefferson NFs	Presidency
Rough Mountain Wilderness	1988	9,300	George Washington and Jefferson NFs	Presidency
Shawvers Run Wilderness	1988	3,665	George Washington and Jefferson NFs	Presidency
Stephen Mather Wilderness	1988	634,614	North Cascades NP	Congress
Upper Kiamichi River Wilderness	1988	9,371	Ouachita NF	Presidency
Alta Toquima Wilderness	1989	38,000	Humboldt-Toiyabe NF	Presidency
Arc Dome Wilderness	1989	115,000	Humboldt-Toiyabe NF	Presidency
Boundary Peak Wilderness	1989	10,000	Inyo NF	Presidency
Currant Mountain Wilderness	1989	36,000	Humboldt-Toiyabe NF	Presidency
East Humboldts Wilderness	1989	36,900	Humboldt-Toiyabe NF	Presidency
Grant Range Wilderness	1989	50,000	Humboldt-Toiyabe NF	Presidency
Mt. Charleston Wilderness	1989	43,000	Humboldt-Toiyabe NF	Presidency
Mt. Moriah Wilderness	1989	82,000	Humboldt-Toiyabe NF	Presidency
Mt. Rose Wilderness	1989	28,000	Humboldt-Toiyabe NF/Lake Tahoe Basin Management Area	Presidency
Quinn Canyon Wilderness	1989	27,000	Humboldt-Toiyabe NF	Presidency
Ruby Mountains Wilderness	1989	90,000	Humboldt-Toiyabe NF	Presidency
Santa Rosa-Paradise Peak Wilderness	1989	31,000	Humboldt-Toiyabe NF	Presidency
Table Mountain	1989	98,000	Humboldt-	Presidency

Wilderness			Toiyabe NF	
Arrastra Mountain Wilderness	1990	126,760	Hassayampa Field Office	Congress
Aubrey Peak Wilderness	1990	15,900	Hassayampa Field Office	Congress
Baboquivari Peak Wilderness	1990	2,065	Tucson Field Office	Congress
Bald Knob Wilderness	1990	5,918	Shawnee NF	Presidency
Bay Creek Wilderness	1990	2,866	Shawnee NF	Presidency
Big Horn Mountains Wilderness	1990	20,600	Hassayampa Field Office	Congress
Burden Falls Wilderness	1990	3,723	Shawnee NF	Presidency
Cabeza Prieta Wilderness	1990	803,418	Cabeza Prieta NWR	Presidency
Caribou-Speckled Mountain Wilderness	1990	12,000	White Mountain NF	Presidency
Chuck River Wilderness	1990	72,503	Tongass NF	Presidency
Clear Springs Wilderness	1990	4,730	Shawnee NF	Presidency
Coyote Mountains Wilderness (AZ)	1990	5,080	Tucson Field Office	Congress
Dos Cabezas Mountains Wilderness	1990	11,998	Safford Field Office	Congress
Eagletail Mountains Wilderness	1990	89,000	Yuma Field Office	Congress
East Cactus Plain Wilderness	1990	14,630	Lake Havasu Field Office	Congress
Fishhooks Wilderness	1990	10,883	Safford Field Office	Congress
Garden of the Gods Wilderness	1990	4,015	Shawnee NF	Presidency
Gibraltar Mountain Wilderness	1990	18,805	Lake Havasu Field Office	Congress
Harcuvar Mountains Wilderness	1990	25,287	Lake Havasu Field Office	Congress
Harquahala Mountains Wilderness	1990	22,865	Hassayampa Field Office	Congress

Hassayampa River Canyon Wilderness	1990	11,840	Hassayampa Field Office	Congress
Havasu Wilderness (AZ)	1990	14,606	Havasu NWR	Presidency
Hells Canyon Wilderness (AZ)	1990	9,200	Vale Distrcit	Congress
Hummingbird Springs Wilderness	1990	30,170	Hassayampa Field Office	Congress
Imperial Refuge Wilderness (AZ)	1990	9,220	Imperial NWR	Presidency
Karta River Wilderness	1990	38,046	Tongass NF	Presidency
Kofa Wilderness	1990	516,200	Kofa NWR	Presidency
Kuiu Wilderness	1990	60,576	Tongass NF	Presidency
Lusk Creek Wilderness	1990	6,838	Shawnee NF	Presidency
Mount Nutt Wilderness	1990	27,530	Hassayampa Field Office	Congress
Mount Tipton Wilderness	1990	31,070	Hassayampa Field Office	Congress
Mount Wilson Wilderness	1990	23,600	Hassayampa Field Office	Congress
Muggins Mountain Wilderness	1990	8,855	Yuma Field Office	Congress
Needle's Eye Wilderness	1990	9,201	Tucson Field Office	Congress
New Water Mountains Wilderness	1990	21,680	Yuma Field Office	Congress
North Maricopa Mountains Wilderness	1990	63,600	Sonoran Desert NM	Presidency
North Santa Teresa Wilderness	1990	6,590	Safford Field Office	Congress
Panther Den Wilderness	1990	940	Shawnee NF	Presidency
Peloncillo Mountains Wilderness	1990	19,650	Safford Field Office	Congress
Pleasant/Lemusurier/ Inian Islands Wilderness	1990	23,140	Tongass NF	Presidency
Rawhide Mountains Wilderness	1990	41,600	Lake Havasu Field Office	Congress
Redfield Canyon	1990	6,600	Safford Field	Congress

Wilderness			Office	
Sierra Estrella Wilderness	1990	14,500	Lower Sonoran Field Office	Congress
Signal Mountain Wilderness	1990	15,250	Lower Sonoran Field Office	Congress
South Etolin Wilderness	1990	83,642	Tongass NF	Presidency
South Maricopa Mountains Wilderness	1990	60,800	Sonoran Desert NM	Presidency
Swansea Wilderness	1990	15,755	Lake Havasu Field Office	Congress
Table Top Wilderness	1990	34,400	Sonoran Desert NM	Presidency
Tres Alamos Wilderness	1990	8,700	Hassayampa Field Office	Congress
Trigo Mountain Wilderness	1990	29,095	Yuma Field Office	Congress
Upper Burro Creek Wilderness	1990	27,900	Hassayampa Field Office	Congress
Wabayuma Peak Wilderness	1990	38,400	Hassayampa Field Office	Congress
Warm Springs Wilderness	1990	90,600	Hassayampa Field Office	Congress
White Canyon Wilderness	1990	5,800	Tucson Field Office	Congress
Woolsey Peak Wilderness	1990	61,000	Lower Sonoran Field Office	Congress
Blood Mountain Wilderness	1991	7,800	Chattahoochee-Oconee NF	Presidency
Mark Trail Wilderness	1991	16,880	Chattahoochee-Oconee NF	Presidency
Chumash Wilderness	1992	38,150	Los Padres NF	Presidency
Garcia Wilderness	1992	14,100	Los Padres NF	Presidency
Matilija Wilderness	1992	29,600	Los Padres NF	Presidency
Sespe Wilderness	1992	219,700	Angeles NF/Los Padres NF	Presidency
Silver Peak Wilderness	1992	14,500	Los Padres NF	Presidency
Buffalo Peaks Wilderness	1993	43,410	Pike and San Isabel NFs	Presidency
Byers Peak Wilderness	1993	8,095	Arapaho and Roosevelt NF	Presidency
Fossil Ridge	1993	30,060	Gunnison NF	Presidency

Wilderness				
Greenhorn Mountain Wilderness	1993	22,040	Pike and San Isabel NFs	Presidency
Powderhorn Wilderness	1993	60,100	Gunnison NF/Gunnison Field Office	Mixed
Ptarmigan Peak Wilderness	1993	13,175	White River NF	Presidency
Sangre de Cristo Wilderness	1993	226,455	Pike and San Isabel NFs/Rio GrandeNF/Great Sand Dunes NP	Presidency
Sarvis Creek Wilderness	1993	47,140	Medicine Bow-Routt NF	Presidency
Uncompahgre Wilderness	1993	4,205	Uncompahgre NF/BLM Gunnison Field Office	Presidency
Vasquez Peak Wilderness	1993	12,300	Arapaho and Roosevelt NF	Presidency
Argus Range Wilderness	1994	74,890	Ridgecrest Field Office	Congress
Big Maria Mountains Wilderness	1994	47,570	Palm Springs - South Coast Field Office	Congress
Bigelow Cholla Garden Wilderness	1994	10,380	Needles Field Office	Congress
Bighorn Mountain Wilderness	1994	39,185	San Bernadino NF/BLM Barstow Office	Mixed
Black Mountain Wilderness	1994	13,940	Barstow Field Office	Congress
Bright Star Wilderness	1994	9,520	Ridgecrest Field Office	Congress
Bristol Mountains Wilderness	1994	68,515	Needles Field Office	Congress
Cadiz Dunes Wilderness	1994	39,740	Needles Field Office	Congress
Carrizo Gorge Wilderness	1994	15,700	El Centro Field Office	Congress
Chemehuevi Mountains Wilderness	1994	64,320	Needles Field Office	Congress
Chimney Peak Wilderness	1994	13,700	Bakersfield Field Office	Congress

Chuckwalla Mountains Wilderness	1994	80,770	Palm Springs - South Coast Field Office	Congress
Cleghorn Lakes Wilderness	1994	33,980	Barstow Field Office	Congress
Clipper Mountain Wilderness	1994	26,000	Needles Field Office	Congress
Coso Range Wilderness	1994	50,520	Ridgecrest Field Office	Congress
Coyote Mountains Wilderness (CA)	1994	17,000	El Centro Field Office	Congress
Darwin Falls Wilderness	1994	8,600	Ridgecrest Field Office	Congress
Dead Mountains Wilderness	1994	48,850	Needles Field Office	Congress
Death Valley Wilderness	1994	3,158,038	Death Valley NP	Congress
El Paso Mountains Wilderness	1994	23,780	Ridgecrest Field Office	Congress
Fish Creek Mountains Wilderness	1994	25,940	El Centro Field Office	Congress
Funeral Mountains Wilderness	1994	28,110	Barstow Field Office	Congress
Golden Valley Wilderness	1994	37,700	Ridgecrest Field Office	Congress
Grass Valley Wilderness	1994	31,695	Ridgecrest Field Office	Congress
Havasu Wilderness (CA)	1994	3,195	Havasu NWR	Presidency
Hollow Hills Wilderness	1994	22,240	Barstow Field Office	Congress
Ibex Wilderness	1994	26,460	Barstow Field Office	Congress
Imperial Refuge Wilderness (CA)	1994	5,836	Imperial NWR	Presidency
Indian Pass Wilderness	1994	33,855	El Centro Field Office	Congress
Inyo Mountains Wilderness	1994	205,020	Inyo NF/BLM Bishop Field Office	Mixed
Jacumba Wilderness	1994	33,670	El Centro Field Office	Congress
Kelso Dunes Wilderness	1994	129,580	Needles Field Office	Congress

Kiavah Wilderness	1994	88,290	Sequoia NF/Ridgecrest Field Office	Mixed
Kingston Range Wilderness	1994	209,608	Needles Field Office	Congress
Little Chuckwalla Mountains Wilderness	1994	29,880	Palm Springs - South Coast Field Office	Congress
Little Picacho Wilderness	1994	33,600	El Centro Field Office	Congress
Malpais Mesa Wilderness	1994	32,360	Ridgecrest Field Office	Congress
Manly Peak Wilderness	1994	16,105	Ridgecrest Field Office	Congress
Mecca Hills Wilderness	1994	24,200	Palm Springs - South Coast Field Office	Congress
Mesquite Wilderness	1994	47,330	Needles Field Office	Congress
Mojave Wilderness	1994	695,000	Mojave National Preserve	Congress
Newberry Mountains Wilderness	1994	22,900	Barstow Field Office	Congress
Nopah Range Wilderness	1994	110,860	Barstow Field Office	Congress
North Algodones Dunes Wilderness	1994	32,240	El Centro Field Office	Congress
North Mesquite Mountains Wilderness	1994	25,540	Needles Field Office	Congress
Old Woman Mountains Wilderness	1994	146,020	Needles Field Office	Congress
Orocopia Mountains Wilderness	1994	40,735	Palm Springs - South Coast Field Office	Congress
Owens Peak Wilderness	1994	74,060	Ridgecrest Field Office	Congress
Pahrump Valley Wilderness	1994	74,800	Barstow Field Office	Congress
Palen/McCoy Wilderness	1994	270,629	Palm Springs - South Coast Field Office	Congress

Palo Verde Mountains Wilderness	1994	32,310	El Centro Field Office	Congress
Picacho Peak Wilderness	1994	7,700	El Centro Field Office	Congress
Piper Mountain Wilderness	1994	72,575	Ridgecrest Field Office	Congress
Piute Mountains Wilderness	1994	36,840	Needles Field Office	Congress
Resting Spring Range Wilderness	1994	78,868	Barstow Field Office	Congress
Rice Valley Wilderness	1994	40,820	Palm Springs - South Coast Field Office	Congress
Riverside Mountains Wilderness	1994	22,380	Palm Springs - South Coast Field Office	Congress
Rodman Mountains Wilderness	1994	27,690	Barstow Field Office	Congress
Sacatar Trail Wilderness	1994	51,900	Ridgecrest Field Office	Congress
Saddle Peak Hills Wilderness	1994	1,440	Barstow Field Office	Congress
Santa Rosa Wilderness	1994	64,340	San Bernadino NF	Presidency
Sawtooth Mountains Wilderness	1994	35,080	El Centro Field Office	Congress
Sheephole Valley Wilderness	1994	174,800	Needles Field Office	Congress
South Nopah Range Wilderness	1994	16,780	Barstow Field Office	Congress
Stateline Wilderness	1994	7,050	Needles Field Office	Congress
Stepladder Mountains Wilderness	1994	81,600	Needles Field Office	Congress
Surprise Canyon Wilderness	1994	29,180	Ridgecrest Field Office	Congress
Sylvania Mountains Wilderness	1994	17,820	Ridgecrest Field Office	Congress
Trilobite Wilderness	1994	31,160	Needles Field Office	Congress
Turtle Mountains Wilderness	1994	144,500	Needles Field Office	Congress
Whipple Mountains	1994	77,520	Needles Field	Congress

Wilderness			Office	
Opal Creek Wilderness	1996	20,724	Williamette NF	Presidency
Dugger Mountain Wilderness	1999	9,200	Talladega NF	Presidency
Gunnison Gorge Wilderness	1999	17,700	Gunnison Gorge National Conservation Area	Congress
Otay Mountain Wilderness	1999	18,500	Palm Springs - South Coast Field Office	Congress
Black Ridge Canyons Wilderness	2000	75,550	McInnis Canyon National Conservation Area/Moab Field Office	Congress
Black Rock Desert Wilderness	2000	315,700	Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area	Congress
Calico Mountains Wilderness	2000	65,400	Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area	Congress
East Fork High Rock Canyon Wilderness	2000	52,800	Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area	Congress
High Rock Canyon Wilderness	2000	46,600	Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area	Congress
High Rock Lake Wilderness	2000	59,300	Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation	Congress

Area				
Little High Rock Canyon Wilderness	2000	48,700	Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area	Congress
North Black Rock Range Wilderness	2000	30,800	Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area	Congress
North Jackson Mountains Wilderness	2000	24,000	Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area	Congress
Pahute Peak Wilderness	2000	57,400	Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area	Congress
Priest Wilderness	2000	5,963	George Washington and Jefferson NFs	Presidency
South Jackson Mountains Wilderness	2000	56,800	Black Rock Desert-High Rock Canyon Emigrant Trails National Conservation Area	Congress
Spanish Peaks Wilderness	2000	18,000	Pike and San Isabel NFs	Presidency
Steens Mountain Wilderness	2000	170,085	Andrews Field Office	Congress
Three Ridges Wilderness	2000	4,608	George Washington and Jefferson NFs	Presidency
Arrow Canyon Wilderness	2002	27,530	Las Vegas Field Office	Congress

Black Canyon Wilderness (NV)	2002	17,220	Lake Mead National Recreation Area	Congress
Bridge Canyon Wilderness	2002	7,761	Lake Mead National Recreation Area	Congress
Eldorado Wilderness	2002	31,950	Lake Mead National Recreation Area/Las Vegas Field Office	Congress
Ireteba Peaks Wilderness	2002	32,745	Lake Mead National Recreation Area/Las Vegas Field Office	Congress
James Peak Wilderness	2002	14,000	Arapaho and Roosevelt NF	Presidency
Jimbilnan Wilderness	2002	18,879	Lake Mead National Recreation Area	Congress
Jumbo Springs Wilderness	2002	4,631	Las Vegas Field Office	Congress
La Madre Mountain Wilderness	2002	47,180	Humboldt-Toiyabe NF/Las Vegas Field Office	Mixed
Lime Canyon Wilderness	2002	23,233	Las Vegas Field Office	Congress
Muddy Mountains Wilderness	2002	48,019	Lake Mead National Recreation Area/Las Vegas Field Office	Congress
Nellis Wash Wilderness	2002	16,423	Lake Mead National Recreation Area	Congress
North McCullough Wilderness	2002	14,763	Las Vegas Field Office	Congress
Pinto Valley Wilderness	2002	39,173	Lake Mead National Recreation Area	Congress
Rainbow Mountain Wilderness	2002	24,977	Humboldt-Toiyabe NF/Las Vegas Field	Mixed

Office				
South McCullough Wilderness	2002	44,245	Las Vegas Field Office	Congress
Spirit Mountain Wilderness	2002	33,518	Lake Mead National Recreation Area/Las Vegas Field Office	Congress
Wee Thump Joshua Tree Wilderness	2002	6,050	Las Vegas Field Office	Congress
Big Rocks Wilderness	2004	12,997	Ely Field Office	Congress
Clover Mountains Wilderness	2004	85,748	Ely Field Office	Congress
Delamar Mountains Wilderness	2004	111,328	Ely Field Office	Congress
Far South Egans Wilderness	2004	36,384	Ely Field Office	Congress
Fortification Range Wilderness	2004	30,656	Ely Field Office	Congress
Gaylord Nelson Wilderness	2004	33,500	Apostle Islands National Lakeshore	Congress
Meadow Valley Range Wilderness	2004	123,488	Ely Field Office	Congress
Mormon Mountains Wilderness	2004	157,938	Ely Field Office	Congress
Mt. Irish Wilderness	2004	28,334	Ely Field Office	Congress
Parsnip Peak Wilderness	2004	43,693	Ely Field Office	Congress
South Pahroc Range Wilderness	2004	25,800	Ely Field Office	Congress
Tunnel Spring Wilderness	2004	5,371	Ely Field Office	Congress
Weepah Spring Wilderness	2004	51,480	Ely Field Office	Congress
White Rock Range Wilderness	2004	24,413	Ely Field Office	Congress
Worthington Mountains Wilderness	2004	30,664	Ely Field Office	Congress
El Toro Wilderness	2005	10,000	El Yunque NF	Presidency
Ojito Wilderness	2005	11,183	Rio Puerco Field	Congress

Office				
Bald Mountain Wilderness	2006	22,366	Humboldt-Toiyabe NF	Presidency
Becky Peak Wilderness	2006	18,119	Ely Field Office	Congress
Bristlecone Wilderness	2006	14,095	Ely Field Office	Congress
Cache Creek Wilderness	2006	27,245	Ukiah Field Office	Congress
Cedar Mountain Wilderness Area	2006	100,000	Salt Lake Field Office	Congress
Cedar Roughs Wilderness	2006	6,350	Ukiah Field Office	Congress
Glastenbury Wilderness	2006	22,425	Green Mountain and Finger Lakes NFs	Presidency
Goshute Canyon Wilderness	2006	42,544	Ely Field Office	Congress
Government Peak Wilderness	2006	6,313	Ely Field Office	Congress
High Schells Wilderness	2006	121,497	Humboldt-Toiyabe NF	Presidency
Highland Ridge Wilderness	2006	68,627	Ely Field Office	Congress
Joseph Battell Wilderness	2006	12,333	Green Mountain and Finger Lakes NFs	Presidency
King Range Wilderness	2006	42,585	Arcata Field Office	Congress
Mount Grafton Wilderness	2006	78,754	Ely Field Office	Congress
Mount Lassic Wilderness	2006	7,279	Six Rivers NF	Presidency
Red Mountain Wilderness (NV)	2006	20,490	Humboldt-Toiyabe NF	Presidency
Rocks and Islands Wilderness	2006	5	Arcata Field Office	Congress
Sanhedrin Wilderness	2006	10,571	Mendocino NF	Presidency
Shellback Wilderness	2006	36,143	Humboldt-Toiyabe NF	Presidency
South Egan Range Wilderness	2006	67,214	Ely Field Office	Congress
South Fork Eel River Wilderness	2006	12,915	Arcata Field Office	Congress

White Pine Range Wilderness	2006	40,013	Humboldt-Toiyabe NF	Presidency
Wild River Wilderness	2006	23,700	White Mountain NF	Presidency
Yuki Wilderness	2006	53,887	Mendocino NF/Arcata Field Office	Mixed
Wild Sky Wilderness	2008	106,577	Mt. Baker-Snoqualmie NF	Presidency
Beartrap Canyon Wilderness	2009	40	St. George Field Office	Congress
Beauty Mountain Wilderness	2009	15,621	Palm Springs - South Coast Field Office	Congress
Beaver Basin Wilderness	2009	11,740	Pictured Rocks National Lakeshore	Congress
Big Draft Wilderness	2009	5,144	Monongahela NF	Presidency
Big Jacks Creek Wilderness	2009	52,826	Bruneau Field Office	Congress
Blackridge Wilderness	2009	13,015	St. George Field Office	Congress
Bruneau-Jarbridge Rivers Wilderness	2009	89,996	Bruneau Field Office/Jarbridge Field Office	Congress
Brush Mountain East Wilderness	2009	3,743	George Washington and Jefferson NFs	Presidency
Brush Mountain Wilderness	2009	4,794	George Washington and Jefferson NFs	Presidency
Cahuilla Mountain Wilderness	2009	5,585	San Bernardino NF	Presidency
Canaan Mountain Wilderness	2009	44,531	St. George Field Office	Congress
Clackamas Wilderness	2009	9,470	Mt. Hood NF	Presidency
Copper Salmon Wilderness	2009	13,700	Rogue River-Siskiyou NF	Presidency
Cottonwood Canyon Wilderness	2009	11,712	St. George Field Office	Congress
Cottonwood Forest Wilderness	2009	2,643	Dixie NF	Presidency
Cougar Canyon Wilderness	2009	10,409	St. George Field Office	Congress

Deep Creek North Wilderness	2009	4,262	St. George Field Office	Congress
Deep Creek Wilderness	2009	3,284	St. George Field Office	Congress
Doc's Pass Wilderness	2009	17,294	St. George Field Office	Congress
Dominguez Canyon Wilderness	2009	66,280	Dominguez-Escalante National Conservation Area	Congress
Garden Mountain Wilderness	2009	3,291	George Washington and Jefferson NFs	Presidency
Goose Creek Wilderness	2009	98	St. George Field Office	Congress
Granite Mountain Wilderness (CA)	2009	34,342	Bishop Field Office	Congress
Hunting Camp Creek Wilderness	2009	8,470	George Washington and Jefferson NFs	Presidency
John Krebs Wilderness	2009	39,740	Sequoia and Kings Canyon NP	Congress
LaVerkin Creek Wilderness	2009	445	St. George Field Office	Congress
Little Jacks Creek Wilderness	2009	50,929	Bruneau Field Office	Congress
Lower White River Wilderness	2009	2,870	Mt. Hood NF/Prineville District Office	Mixed
Magic Mountain Wilderness	2009	12,282	Angeles NF	Presidency
North Fork Owyhee Wilderness	2009	43,413	Owyhee Field Office	Congress
Oregon Badlands Wilderness	2009	29,301	Prineville District Office	Congress
Owens River Headwaters Wilderness	2009	14,721	Inyo NF	Presidency
Owyhee River Wilderness	2009	267,328	Owyhee Field Office	Congress
Pinto Mountains Wilderness	2009	24,404	Barstow Field Office	Congress
Pleasant View Ridge Wilderness	2009	26,757	Angeles NF	Presidency

Pole Creek Wilderness	2009	12,533	Bruneau Field Office	Congress
Raccoon Branch Wilderness	2009	4,223	George Washington and Jefferson NFs	Presidency
Red Butte Wilderness	2009	1,537	St. George Field Office	Congress
Red Mountain Wilderness (UT)	2009	18,729	St. George Field Office	Congress
Roaring Plains West Wilderness	2009	6,792	Monongahela NF	Presidency
Roaring River Wilderness	2009	36,550	Mt. Hood NF	Presidency
Rocky Mountain National Park Wilderness	2009	249,339	Rocky Mountain NP	Congress
Sabinoso Wilderness	2009	16,030	Taos Field Office	Congress
Slaughter Creek Wilderness	2009	3,901	St. George Field Office	Congress
Soda Mountain Wilderness	2009	24,100	Medford District	Congress
South Fork San Jacinto Wilderness	2009	20,217	San Bernardino NF	Presidency
Spice Run Wilderness	2009	6,030	Monongahela NF	Presidency
Spring Basin Wilderness	2009	6,382	Prineville District Office	Congress
Stone Mountain Wilderness	2009	3,270	George Washington and Jefferson NFs	Presidency
Taylor Creek Wilderness	2009	32	St. George Field Office	Congress
White Mountains Wilderness	2009	229,993	Inyo NF/Ridgecrest Field Office	Mixed
Zion Wilderness	2009	124,406	Zion NP	Presidency
Elkhorn Ridge Wilderness	2011	11,271	Arcata Field Office	Congress
Columbine-Hondo Wilderness	2014	45,000	Carson NF	Presidency
Hermosa Creek Wilderness	2014	37,236	San Juan NF	Presidency
Pine Forest Range Wilderness	2014	26,000	Winnemucca Field Office	Congress

Sleeping Bear Dunes Wilderness	2014	32,557	Sleeping Bear Dunes National Lakeshore	Congress
Wovoka Wilderness	2014	47,449	Humboldt-Toiyabe NF	Presidency
Hemingway-Boulders Wilderness	2015	67,998	Sawtooth NF	Presidency
Jim McClure-Jerry Peak Wilderness	2015	116,898	Salmon-Challis NF/Challis Field Office	Mixed
White Clouds Wilderness	2015	90,769	Sawtooth NF/Challis	Mixed

Notes: NF = National Forest, NM = National Monument NP = National Park, NWR = National Wildlife Refuge, Field Office = Bureau of Land Management Regional Office

For the establishment method categories, presidency refers to those lands originally established via presidential order or proclamation, Congress refers to those lands originally formed by law, administrative refers to lands originally created by executive agency or secretary, and mixed refers to those lands where the president and Congress took action to originally create the reserves.

For more detailed information on the compilation of this dataset, please see Appendix I: Additional Methodology.

Source: *Wilderness Data*. College of Forestry and Conservation Wilderness Institute of the University of Montana, Arthur Carhart National Wilderness Training Center, and the Aldo Leopold Wilderness Research Institute. Available: www.wilderness.net.

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