

Public Listening Session  
Kingman, Arizona  
“Government Land Grabs, Exposing the Truth”  
April 11, 2016

Arizona Liberty  
takes an in depth look at a  
National Monument Designation



# Arizona Liberty

“Self-Financed” Grassroots Group of  
Concerned Sedona Residents

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# What is the 1906 Antiquities Act?

- Designated unilaterally by an **EXECUTIVE ORDER** (President) or by **LEGISLATION** (Congress)
- Can be done with **LITTLE** citizen or state involvement
- Used to **PROTECT** historic artifacts and sites
- Must be **CONFINED** to the “smallest area” necessary



# Congressional Action

- National Monuments can be designated through public law as a result of **CONGRESSSIONAL ACTION**
- Requires **PUBLIC COMMENT** and **INVOLVEMENT**
- Requires **NEPA COMPLIANCE**
- Specifies **USES** and includes **BETTER DIRECTION**



# Designation under 1906 Antiquities Act

- President designates unilaterally by public proclamation
- Disenfranchises local and state stakeholders
- Does not value local input to the process
- Ignores state officials' and agencies' input
- Undermines public support for existing management
- Ignores future mandated NEPA & Section 7 Analysis

**UNDERMINES EXTENSIVE ONGOING WORK AND  
PRIOR COLABERATION BETWEEN LOCAL  
ORGANIZATIONS AND FEDERAL AGENCIES**



# 1906 Antiquities Act – Section 2

The President of the United States is authorized, in his discretion, *to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest* that are situated upon the lands owned or controlled by the Government of the United States to be National Monuments, and may reserve as a part thereof parcels of land, *the limits of which in all cases shall be confined to the SMALLEST area compatible with proper care and management of the objects to be protected.* When such objects are situated upon a tract covered by a bona fide unperfected claim *or held in private ownership*, the tract, or so much thereof as may be necessary for the proper care and management of the object, *may be relinquished to the Government*, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in [sic] behalf of the Government of the United States.



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# Legal Implications

- Federal Government's ability to reach beyond the confines of public land and regulate activity on adjacent state and private lands has startled many states, particularly in the West, where federal lands are extensive. More specifically, this doctrine is known as "the inholder's rule" as defined by the U.S. Supreme Court.
- Private and state lands subject to regulations under statutes pursuant to the extra-territorial application of the Property Clause must be within the perimeter area of a designated conservation unit or **ENTIRELY SURROUNDED** by federal lands.
- The application of the **PROPERTY CLAUSE** (proven by case law), **CAN APPLY** to all levels of government controlled land, but has never been exercised in regards to a **NATIONAL FOREST** that can be found. A National Forest designation NOT subject to the **PROPERTY CLAUSE** as outlined in the Antiquities Act





# Consequences

- Decreased Recreational Opportunities
  - Camping, Shooting, Hunting, Riding, OHV use and Travel
- Retired Grazing Leases
  - Ranchers out of business; Local businesses shuttered
- Restricted Forest Management
  - Will harm 4FRI and prevent active forest management
- Seized Water Rights and Contaminated Watersheds
  - Prevent the use of groundwater and surface water rights
  - Lack of forest management causes wildfires, harms watersheds



# Consequences

- Restricted Property Rights
  - Property bordering a national monument
  - Property Clause limits personal property rights
  - 28,000 acres private land and 64,000 acres state trust land
- Restricted Economic Opportunities and Jobs Losses
  - Will close at least three businesses, prevent mining, commercial development, timber production, and other activities
- Degraded local quality of life
- Lost business revenue and jobs
- Limited utility company access
- Loss of local and state revenue



# Consequences

## NATIONAL MONUMENTS and NATIONAL PARKS

### AUTOMATICALLY

Given a High Alert Status by the Department of Homeland Security

**Question:** What law enforcement agency is in charge: City Police, County Sheriff or DHS?

**Question:** What federal agency is in charge: Park Service, BLM or Forest Service?

**Answer:** No One Knows!



# The Rules Are Different

National Forest Rules are OPEN, MULTI-USE

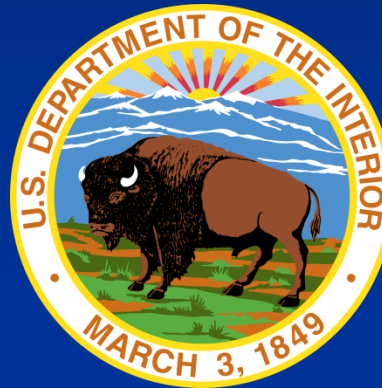
National Monument Rules are RESTRICTIVE

More Government Regulations = Less Personal Freedoms

## RESTRICTIONS

LEAST (1) TO MOST (5)

1. National Forest
2. National Monument
3. National Scenic Area
4. National Park
5. Wilderness Area



30% of **NATIONAL MONUMENTS** have been converted to **NATIONAL PARKS**



# Neighboring State National Monuments With LITTLE to NO Public Input

Castle Mountains, Mojave Trails, Sand to Snow (CA)

1,800,000 acres in January, 2016

Berryessa-Snow Mountain (CA)

360,000 acres in July, 2015

Basin and Range “Harry/Barry” (NV)

700,000 Acres in July, 2015

San Gabriel Mountains (CA)

350,000 acres in October, 2014

Organ Mountains Desert Peaks (NM)

500,000 acres in May, 2014

Grand Staircase – Escalante (UT)

1,900,000 acres in September, 1996



# Grand Staircase - Escalante (UT)

## Designated under Antiquities Act

- Unilaterally by President Clinton (Bruce Babbitt - Sec. of Interior)
- No support by local stakeholders, governor or elected officials
- Announced with 24-hour advance notice to governor
- Encompassed 1,900,000 acres

## Consequences to Community

- Managed by Bureau of Land Management
- Promised “no changes to management guidelines”
- Restricted property access for road repair, fence maintenance, etc.
- Degraded businesses, livestock grazing, and local quality of life
- Shuttered businesses and depopulation (150 -> 50 elementary students)
- Residents concluded “officials have deliberately misled the public “



# Exceptions - Wyoming and Alaska

- A 1950 law passed by Congress prohibits designation of a national monument in the state of Wyoming under the Antiquities Act and requires Congressional approval for any new monuments.
- A statutory requirement implemented by Congress limits designations in Alaska under the Antiquities Act to 5,000 acres or less.



# The Process is Broken After Years of Abuse

- The Antiquities Act gives a President unilateral authority to designate a national monument (no vote of the people).
- A preliminary Resource Management Plan (“RMP”), submitted with the national monument proclamation, is **SUBJECT TO CHANGE AFTER** the proclamation is signed (Washington DC “Black Box”). Changes to the RMP are based on the National Environmental Policy Act (NEPA) and other required studies (4+ years) which establish land use rules and protocols



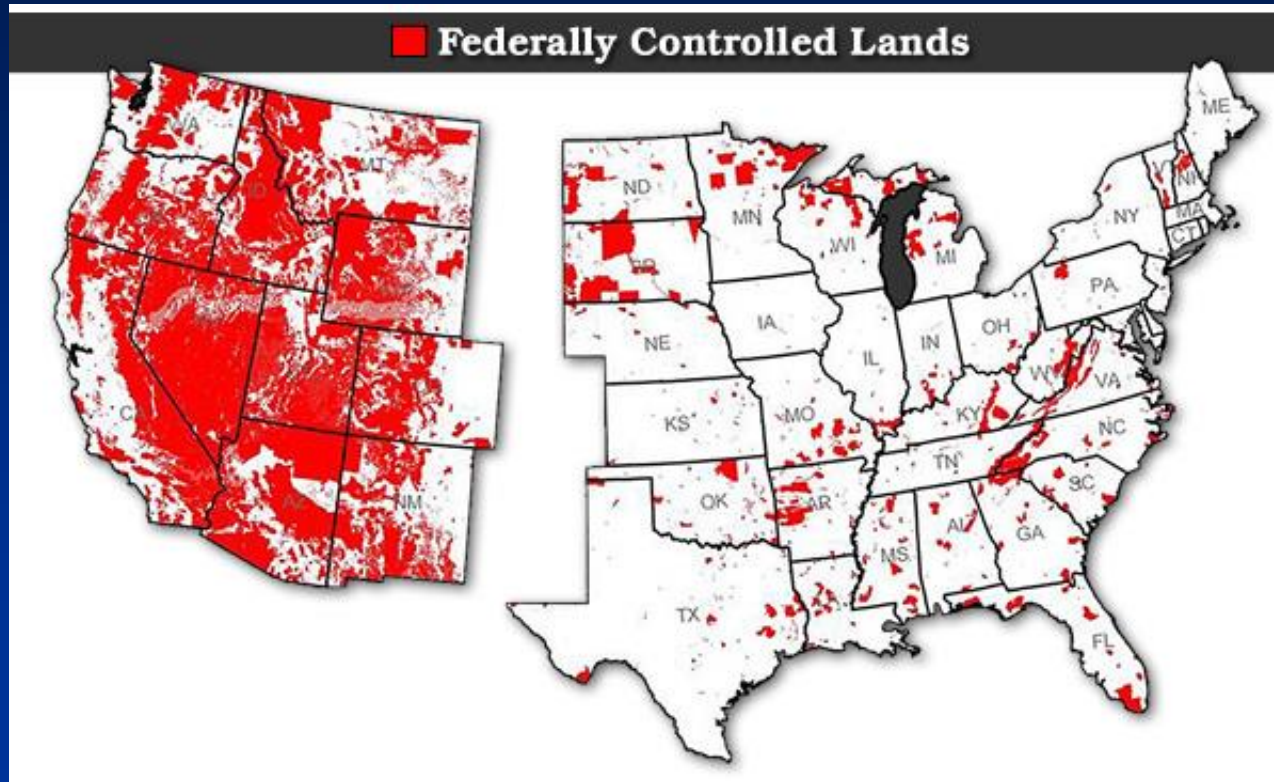


# Actual Incidents

- Organ Pipe Cactus National Monument (Arizona)
  - Damaged due to **UNRESTRICTED** illegal immigration
- Constitutional power over public lands is **WITHOUT LIMITATION**
  - The U.S. Supreme and Appellate Courts have consistently ruled under the Property Clause of the U.S. Constitution (Art. IV, § 3, d. 2.) and the National Park Service Organic Act (16 U.S.C. § 1 - 1994)
- Federal Agencies may use the Property Clause, and their enabling statutes, to protect public lands from extra-territorial threats, i.e. **PROPERTY BORDERING FEDERAL FUNDS**
  - U.S. v. Brown, 552 F.2d 817,817 (8th Cir. 1977) In the Brown case, the Court ruled that the Property Clause is broad enough to reach beyond territorial limits.



# Federal Land Concentration

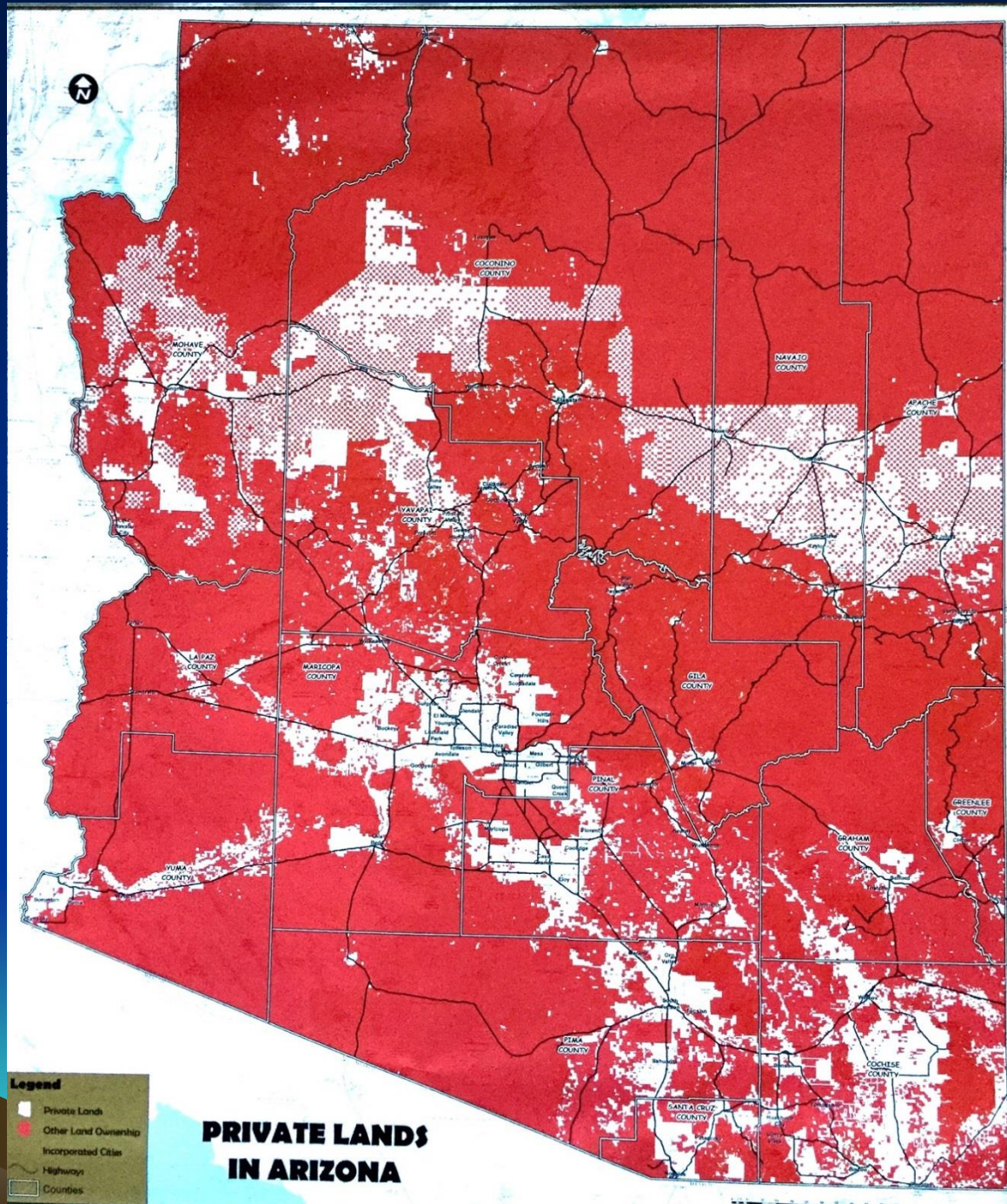


Nearly 50% of the land in the 11 western states is controlled by the federal government.

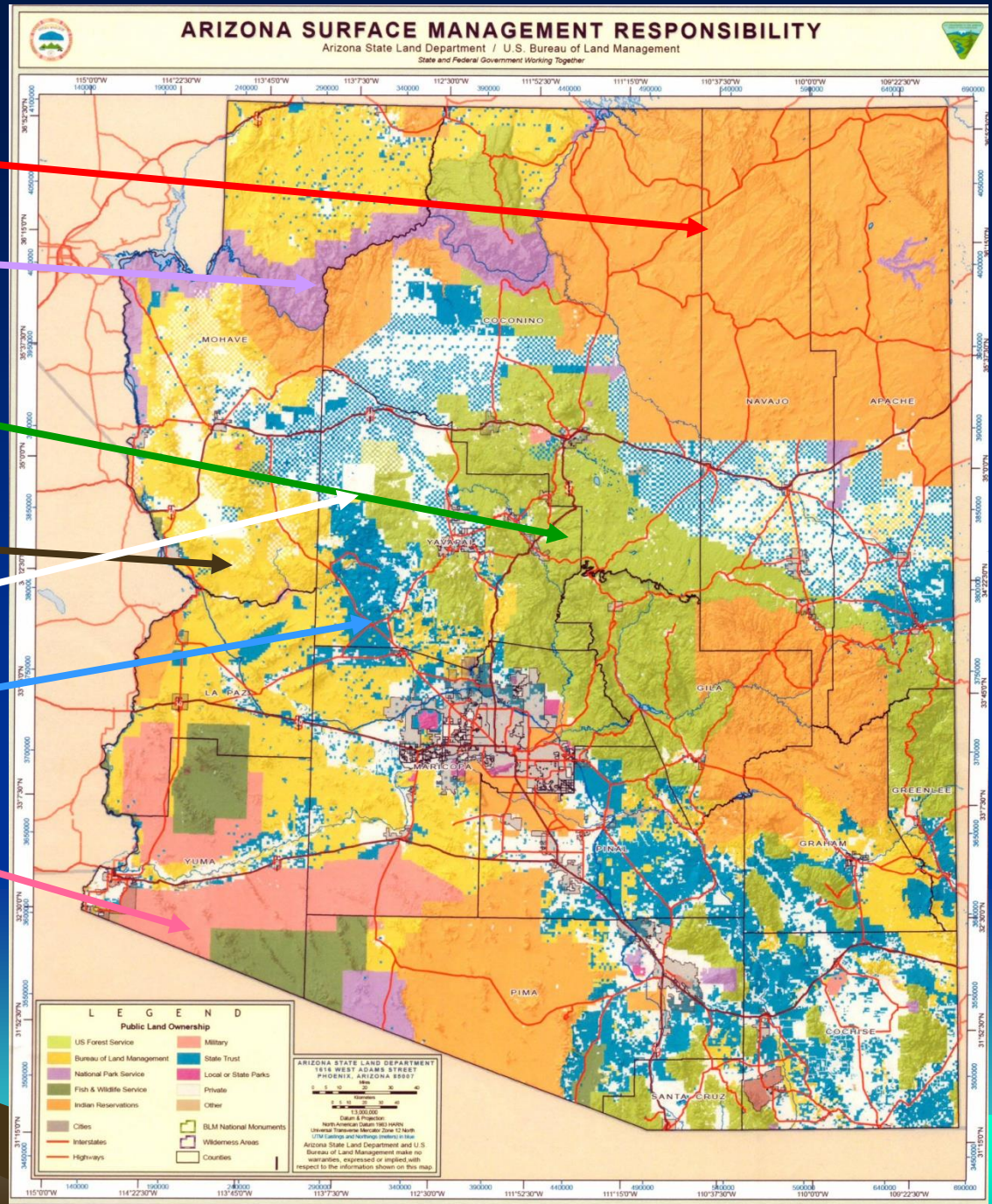


**RED** = Government  
Federal + Some State

**WHITE** = Private



Reservations  
 National Park  
 National Forest/  
 Wilderness Areas  
 BLM  
 Private  
 State Trust  
 Military

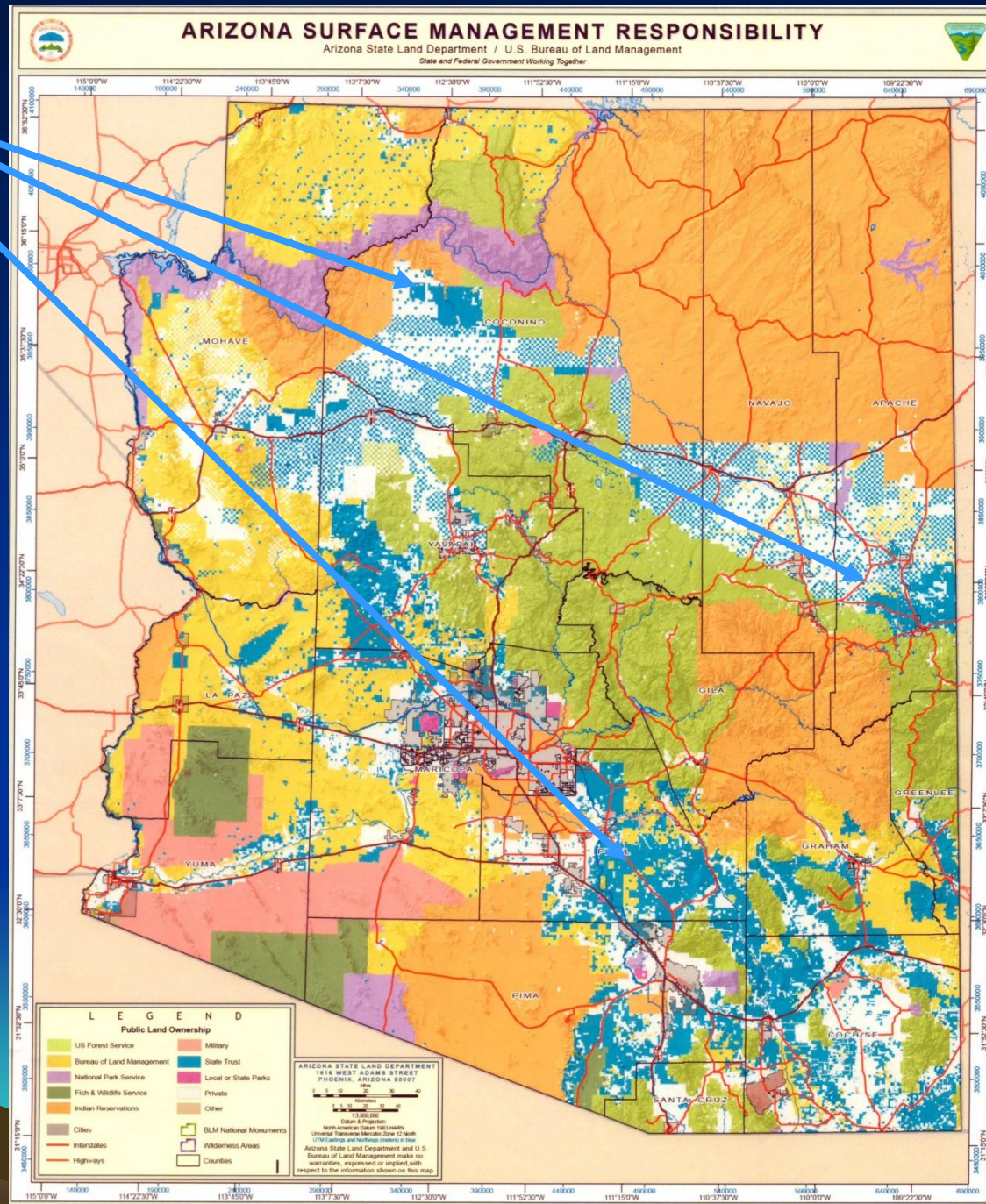


# State Trust Lands

**TODAY**, Arizona manages **STATE TRUST LANDS** for the benefit of our educational system. Selling any parcel over 200 acres is **DIFFICULT** and is counter-productive to having an asset that generates recurring revenue.

The State's ability to manage additional land for recreation, safety, wildlife, culture, heritage and REVENUE is **CRITICAL** for the financial security and well being of our Arizona residents.

Payment in Lieu of Taxes (PILT) \$.62/acre v \$50/acre = \$1,300,000,000/year



# The Future

- What gives the Federal Government the right to take away freedoms that we enjoy today from future residents of Arizona?
- The balance between our land, our people, and our state in 2030, 2050, 2070 and beyond **MUST NOT** be “locked” up by bureaucrats 2000 miles away.
- The STATES know better than the FEDS what works best in our own back yard.
- Good for the public? Or good for the citizens NEAR or NEXT to a National Monument?
  - Grand Staircase Escalante, UT
  - Basin & Range, NV
  - Organ Mountain Desert Peaks, NM
  - San Gabriel Mountains, CA
  - Little Bighorn Battlefield - 24 YRS
  - **NOT SO MUCH!**
- We must LEARN from the mistakes of others.



## MOST Presidents ABUSE the Antiquities Act, typically in their last year in office

With **NEW** designations in 2015 alone, President Obama has established or expanded 22 national monuments totaling more than 260 million acres of public lands and waters, more than any previous president, using the Antiquities Act of 1906, giving the president wide latitude “to safeguard at-risk federal lands that have cultural, historic or scientific value”. (NOT WHAT THE ANTIQUITIES ACT of 1906 STATES)

President Obama has now bested President Teddy Roosevelt and has locked up more land under the Antiquities Act than Presidents Carter, Clinton and Franklin Delano Roosevelt.

President Obama is preparing to do even more before he leaves office next year. The result will be one of the most expansive environmental and historic-preservation legacies in presidential history without a vote of the people.

The Federal Government does not provide adequate funding for new national monument designations



For Immediate Release

November 5, 2015

WASHINGTON, D.C.

U.S. Congressman Paul A. Gosar, D.D.S. (AZ-04) introduced H.R. 3946, **Protecting Local Communities from Executive Overreach Act**, legislation which updates the 1906 Antiquities Act in order to protect property rights, water rights and jobs from presidential abuse of the Antiquities Act.





ARIZONA LIBERTY WOULD LIKE TO THANK  
CONGRESSMAN GOSAR FOR THE  
OPPORTUNITY TO SHARE ITS RESEARCH  
WITH THE CITIZENS OF ARIZONA

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