

## *Rockhounds could hit rock bottom in 2018*

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### ***That was then – theory vs. reality***

**H**ISTORICALLY, the creation of national monuments (NMs) has meant loss of access to collecting areas for rockhounds. On paper, nothing prevents accommodation of hobby collecting to be written into the management plan for a national monument or (some) other designations; however, plans that seem never to get finalized (e.g., Red Rock Canyon has waited 24+ years) or plans that do, have consistently excluded rockhounds during the interim drafting period and afterwards.

While the protective designation preserves features that rockhounds like a whole lot – pristine views, night skies, solitude – the creation of national monuments has always resulted in hobby collecting either being banned or access routes to “open” collecting areas being gated, and claim holders could look forward to losing their franchise. Thus, it should surprise no one that rockhounds have never had reason to think of the national monument designation as a good thing for them.

A series of MOUs and statutes, including but not limited to the **Federal Land Policy and Management Act of 1976, or FLPMA** (Pub.L. 94–579) and the **California Desert Protection Act of 1994** (Pub.L. 103–433) promised to respect stakeholder values and uses that included hobby collecting. The experience has been a dispiriting succession of all too frequently broken promises that all too often translated into loss of habitat for a vanishing species – the recreational rockhound.

### ***This is now – an old remedy for a new reality will not work***

**The Antiquities Act of 1906** (Pub.L. 59–209, 34 Stat. 225, 54 U.S.C. § 320301–320303), which enables the creation of national monuments by presidential proclamation, has become a particularly sore grievance

with rockhounds. Since the early 1990s, executive authority has been invoked with increasing frequency, resulting in millions of acres of public lands where recreational hobby collectors once freely visited having been put off limits.

The obvious solution to some rockhounds was to undo or drastically limit the **Antiquities Act**. If that seemed like a potentially viable solution for ensuring access to public lands 20 years ago, it isn't any more.

The bitter reality is that public lands without protective designations are available to be gobbled up for utility scale projects, putatively to create jobs and economic opportunity for communities in remote areas and to provide needed resources to high density population centers far away. Every millimeter of ground, much of it formerly regarded as worthless wasteland, has been flagged by disparate stakeholders – not only conservation groups, but also private companies. Nowhere is that more demonstrable than in the Mojave Desert.

### ***“Katy, bar the door!”***

The state of new normal hasn't been lost on public officials and special interest groups, who are alarmed at the rapacious pace that private enterprise has been industrializing public lands in coordination with the **Department of the Interior**. New legislation is clearly needed to manage the changing demands for uses of public lands. But realistically, under the best of circumstances, it takes years and years to enact significant legislation, and recreationists are up against private interests who can bring to bear a formidable lobbying capacity that didn't much exist until vast swathes of “wasteland” suddenly became desirable real estate suitable to build, clear-cut, drill, tap, or strip.

In the meantime, permits are at the ready to greenlight projects the moment designated public lands lose their protective status. And so, the **Antiquities Act** has been an effective tool to staunch the unchecked industrialization of public lands.

***The devil you know vs. the one you don't –  
make protective designations work  
vs. put public lands in private hands  
with HR 3990***

The hope of rectifying a system that has not worked especially well in the past can make almost anything that represents a real change seem appealing. However, it may prove to be a Faustian bargain with unintended consequences for recreational users of public lands to support rolling back protective designations and/or prevent them from being created in the first place under authority of the **Antiquities Act**.

Rockhounds have the opportunity to find out, and most important, they have the opportunity to weigh in on **HR 3990**. If they can find common ground within their own ranks, they could quite possibly make a difference on how what's broken gets fixed – or inadvertently help to make things worse.

So, is **HR 3990** good for rockhounds?

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**HR 3990** is a bill that proposes to drastically amend the **Antiquities Act**. It was introduced in the House of Representatives on October 6, 2017 by **Congressman Rob Bishop** (R-UT). **Bishop's** bill has passed through the House Committee on Natural Resources and was headed to a vote on the floor of the house during the week of October 23rd, 2017. However, the vote has not yet been taken.

The bill can be found online at:

<https://www.congress.gov/bill/115th-congress/house-bill/3990/>

Key provisions include:

- i. enables downsizing of national monuments by executive authority (no such provision under law currently exists);
- ii. limits the features that qualify lands for national monument designation to “objects of antiquity” (excludes features of historical or scientific value);
- iii. limits the size of national monuments to 640 acres; creating larger monuments would be subject to a protracted approval process;
- iv. limit emergency designations of lands targeted for destruction.

**Bishop's** bill will allow transferring authority to states and local counties and municipalities to administer public lands that have been stripped of their protective

national monument designation as they deem fit.

***The devil is in the details –***

Some rockhounds believe **HR 3990** will facilitate restoration of access to public lands for their enjoyment, but the explicit intention is to enable local governments to privatize public lands and make them available for industrial projects (e.g., solar/geothermal/wind energy, commercial mining, oil drilling, water drafting, toxic waste dumps).

The bill does not return national monuments to their previous conditions of use. It does not protect recreational uses or other “public good” or “public trust” values. **HR 3990** is a giveaway to industry, enabling economic private-public partnerships with counties to serve the interests of local communities with no accountability to non-residents or the wider public.

***Rockhounds' input is needed on HR 3990***

It is not clear when a vote will be taken on the floor of the House – possibly, early in 2018. When the vote is taken – and if the bill passes – a vigorous blocking effort is expected in the Senate.

What do others think? No one is going to care more than rockhounds about how passage of **HR 3990** affects them, if it becomes law. The bill is an important issue for rockhounds to discuss. There are strong and divergent views on this subject, in general, but an open discussion/debate should be taken up by mineralogical societies on this particular bill, because it will have a pervasive and significant impact on the hobby collecting community.

In the opinion of this author, **HR 3990** is a profoundly flawed bill. Focusing on the management plans for national monuments and having hobby collecting written into them *pro forma* can accomplish the goals of rockhounds without conflicting with other stakeholders' values and getting mired in a protracted legislative or bureaucratic morass that leaves hobby collectors in limbo indefinitely or worse, shut out of public lands permanently.

If rockhounds can find consensus and come together the way they did for the proposed rule on the **PRPA** earlier this year, then a comment letter signed by many societies could make a difference that will protect the values of the community at large.