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The Colonial Legacy of Public Lands: Exploring Extractivism in the Bears Ears Region

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Exploring Extractivism in the Bears Ears Region

Josephine Cohen

Abstract

As the colonial ideals that underscore the United States' founding have bled into modern environmental policy, Indigenous communities have continued to be disenfranchised from and systematically oppressed through the creation, protection, and management of public lands. This, in turn, has manifested as vast human rights abuses through methods of cultural and physical genocide. This thesis examines the role extractivism and land grabs on public lands play in violating the basic human rights of many Indigenous populations, using the case study of extractivism on Bears Ears National Monument as a guiding framework. Chapter 1 provides an overview of public lands and land management strategies in the United States using relevant governmental and scientific data. It also outlines the ecosystem services provided by public lands, including cultural, regulating, supporting, and provisioning services, as outlined by the Millennium Ecosystem Assessment. Building on this, Chapter 2 provides an environmental history of public lands, land grabs, and extractivism benefiting settler-colonial actors such as corporations and the U.S. government from both an Indigenous and settler-colonial perspective. Chapter 3 applies a political science perspective, focusing on the political autonomy of Native American nations, the legality behind land grabs and extractivism, and efforts to block these actions, such as the Bears Ears Inter-Tribal Coalition's lawsuit against former President Trump. Chapter 4 takes a public health perspective, examining the role of various extractive industries on public lands in creating and perpetuating public health crises in surrounding communities, particularly focusing on the impacts of uranium mining in the Diné (Navajo) Nation. Additionally, it frames the crisis as an environmental justice issue and highlights the role of environmental racism in allowing and encouraging these processes. Finally, Chapter 5 puts forth suggestions for more effective policy creation in managing public lands such as an increased

focus on capacity building and the implementation of LandBack initiatives based on the topics discussed in this thesis. Additionally, it explores how effectively addressing human rights abuses that result from extractivism and land grabs must involve prioritizing Indigenous voices in government and policy creation and abolishing colonial structures in public lands management.

Keywords: public lands, indigenous rights, environmental policy, land grabs, LandBack, extractivism, environmental justice, settler colonialism, Bears Ears National Monument

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Abbreviations and Acronyms

BBF	<i>billion board feet</i>
BLM	<i>Bureau of Land Management</i>
BIA	<i>Bureau of Indian Affairs</i>
DOD	<i>Department of Defense</i>
DOI	<i>Department of the Interior</i>
FLPMA	<i>Federal Land Policy and Management Act</i>
FS	<i>Forest Service</i>
FWS	<i>Fish and Wildlife Service</i>
MMBF	<i>million board feet</i>
NEPA	<i>National Environmental Policy Act</i>
NPS	<i>National Park Service</i>
NWRS	<i>National Wildlife Refuge System</i>
USDA	<i>US. Department of Agriculture</i>

Introduction: Bears Ears National Monument

Hoon'Naqvut, Shash Jaa', Kwiyagatu Nukavachi, and Ansh An Lashokdiwe are all Native names meaning "Bears Ears" used for the two twin buttes that stand over 8,700 feet in elevation and are distinctive of the Bears Ears region landscape in southeastern Utah (Bears Ears Education Center, n.d.; U.S. President 2016, 1139). The region, which covers the land area from the Colorado River in the north to the San Juan River in the south, encompasses an array of landscapes such as mountains, canyons, meadows, and mesas. These landscapes and the varying plant and animal species they hold have supported diverse human and environmental systems for centuries, which have left important cultural, spiritual, archaeological, and scientific sites and histories in the region (Harold, n.d.; U.S. President 2016, 1139).

On December 28, 2016, former President Obama invoked the Antiquities Act to designate the Bears Ears region as a national monument, largely as a result of the advocacy efforts of the Bears Ears Inter-Tribal Coalition. The move was a historic decision that prioritized the land philosophies and traditional ecological knowledge of the Hopi Tribe, Zuni Tribe, Ute Mountain Ute Tribe, Uintah and Ouray Ute Tribes, and Diné Nation, all of whom have historical, cultural, and spiritual ties to the landscape. The monument was originally mapped by Utah Diné Bikéyah, a non-governmental group from the Diné Nation focused on protecting Bears Ears, and later proposed by this group of five tribes (Gessner 2018; Doshi 2021).

The original designation of Bears Ears included 1.35 million acres in southeastern Utah (Popovich 2017) and contained over 100,000 culturally and historically significant Indigenous sites (Gessner 2018). Traditionally, the land that comprises Bears Ears National Monument was where Indigenous tribes – including members of the Bears Ears Inter-Tribal Coalition – lived, hunted, held religious ceremonies, and buried their loved ones. Currently, it functions as an

important archaeological site as it holds Indigenous art and artifacts like paintings on caves and pottery. Additionally, many Indigenous peoples return to Bears Ears to hunt and hold traditional ceremonies (Harold, n.d.). Obama's declaration protected this important landscape and gave these tribes an advisory role in managing the monument, which acknowledged the important role Indigenous peoples should play in the management of public lands based on their historical and cultural knowledge (Doshi 2021).

However, in 2017, former President Trump repealed Bears Ears National Monument, reducing its land area by 85 percent, in order to open the land up to oil and gas drilling and mining. The repeal of Bears Ears also created a potential for road construction and the use of mechanized vehicles, which could cause further damage to the sacred land (*NRDC et al. v. Trump (Bears Ears)* 2019). According to Indigenous tribes and environmental groups fighting the repeal of the monument, many areas left out of the new boundaries of Bears Ears leave culturally significant sites susceptible to looting, vandalism, and development (Popovich 2017). It could also set a dangerous precedent for the downsizing of other protected areas for the interest of private industry.

In addition to threatening the landscape, Trump's decision to repeal the designation of Bears Ears National Monument undermined the political advocacy and cultural and spiritual needs of the tribes who were instrumental in the designation of the monument. This subversion of Indigenous authority provides a clear example of an environmental justice issue as it allows for the destruction of areas of historical, cultural, and spiritual significance to Indigenous peoples and allows harmful industries to operate in areas populated by Indigenous peoples. As a result, it perpetuates systems and ideals born out of settler colonialism in the United States.

After years of political conflict over the status of Bears Ears National Monument, President Biden redesignated the monument in October of 2021. According to Hopi Vice Chairman Clark Tenakhongva, the redesignation came as “a sigh of relief, a breath of new air” (Heinsius 2021). While the future of Bears Ears now seems more certain, understanding the history and the political and cultural fight surrounding its designation is an important part of understanding the broader history of settler colonialism in the United States.

This thesis will examine social, political, and environmental justice issues resulting from extractivism, using the case study of Bears Ears National Monument as a guiding framework. Chapter 1 presents quantitative data regarding public lands in the United States and the ecosystem services they provide. Chapter 2 outlines a more comprehensive history of public lands, focusing on how the history of settler colonialism has contributed to continuous land grabs, extractivism, and conflict on public lands. Chapter 3 examines the political autonomy of Native American nations and the legal framework surrounding land designations, land grabs, and extractivism. Additionally, it outlines the recent attempts to block the repeal of Bears Ears National Monument, such as the lawsuit brought against Trump by the Bears Ears Inter-Tribal Coalition. Chapter 4 presents extractivism as a public health crisis and an environmental justice issue, primarily focusing on the impact of uranium mining in the Diné Nation. Finally, Chapter 5 provides policy suggestions aimed at addressing the legacy of settler colonialism in public lands policy and management, including an increased focus on LandBack initiatives, capacity building,

Indigenous representation, and the decolonization of various structures and systems in the United States.¹



Figure 1. Bears Ears Buttes on Bears Ears National Monument. (Bears Ears Education Center, n.d.)

Chapter 1: Public Lands, Ecosystem Services, and Indigenous Rights

In the United States, discussions of federally owned and managed lands often conjure images of scenic national parks in the West that have come to define our national identity as symbols of the American Dream. While national parks certainly are included in our systems of public lands, they constitute a small portion of federally owned, public lands that often obscure the practical and historical uses of federally owned land. Approximately 640 million acres of land are federally owned in the United States, which constitutes about 28 percent of the total land area. Of these federally owned lands, 615.3 million acres are primarily managed by the Bureau of Land Management (BLM), Fish and Wildlife Service (FWS), National Park Service (NPS)

¹ *Author's Note.* This thesis intentionally uses language that centers Indigenous peoples and communities in the historical and cultural narrative in an attempt to subvert the common settler-colonial ideals that underscore most tellings of U.S. history. One key example is the use of names of Indigenous nations in their own language, such as Diné instead of Navajo.

It is also important to note that many of the official government documents cited in this report, namely the Congressional Research Service reports regarding land use and distribution, use language, framing, and historical fallacies that perpetuate Indigenous erasure and political exclusion. As a result, these documents are used solely to gather relevant quantitative data on current land control, distribution, and management policies in the United States.

within the Department of the Interior (DOI), Forest Service (FS) within the Department of Agriculture (USDA), and the Department of Defense (DOD) (Vincent and Hanson 2021, 1).

The BLM and FS oversee 244.4 million and 192.9 million acres of land, respectively, for multiple uses, including recreation, timber harvesting, grazing, and energy and mineral extraction. Land management strategies for these lands are generally guided by the principle of sustained yields, which encourages high levels of resource output without degrading the productivity of land. BLM land is most commonly rangeland, while the FS oversees the National Forest System. The FWS manages 89.2 million acres including all of the National Wildlife Refuge System (NWRS), with wildlife-related activities such as hunting, hiking, and education designated as “priority use” (Vincent and Hanson 2021, 4-5). Most commonly known, the NPS manages more than 85 million acres in 423 individual units (National Park Service 2021) “to preserve unique resources and to provide for their enjoyment by the public” (Vincent and Hanson 2021, 6). The DOD manages 8.8 million acres (Vincent and Hanson 2021, 1), however, lands managed by the DOD are not generally included in discussions of land protection, extractivism, or Indigenous rights. This thesis will primarily focus on lands administered by the BLM and FS, as they are most relevant to the discussion of Bears Ears National Monument.

Additionally, the Bureau of Indian Affairs (BIA) within the DOI controls approximately 55 million acres of land that is held in trust by the U.S. government for Native American tribes and tribal members. Trust land includes tribal trust land, which is held in trust for use by an entire tribal nation, and individual trust allotments, which are held in trust for individual tribal member ownership (Fitzpatrick 2021, 4, 10-11). The primary obligation of the federal government under federal trust responsibility is financial compensation for previously stolen land that is required both legally and ethically (Kalt and Singer 2004, 13). Other land

designations include fee lands, which are privately owned lands generally within a reservation boundary, and restricted fee land (Fitzpatrick 2021, 4, 10-1). The former indicates land with ownership status that allows the owner to sell, transfer, or encumber land without federal approval. Alternatively, restricted fee lands are subject to restrictions under federal law to alienation or encumbrance, but may be encumbered with approval by Congress or the Secretary of the Interior (Fitzpatrick 2021, 11-12).

Within the 55 million acres held in trust, 326 land areas are administered by the U.S. government as Indian reservations. Currently, the largest contiguous reservation is that of the Diné Nation, which totals nearly 16 million acres (Dunbar-Ortiz 2014, 12), and borders Bears Ears National Monument. The reservation system was established through various treaties, executive orders, acts of Congress, and administrative action (Fitzpatrick 2021, 17) in an attempt to remove Native American populations from lands desired for colonial settlement or for the establishment of National Parks. The establishment of the reservation system was central to the various forms of violence and physical and cultural genocide committed against Indigenous peoples in the United States (Spence 2000, 30). While official reservations do not encompass all of the land owned or controlled by the various Native American nations or individual tribal members in the United States, this thesis will focus primarily on reservation lands as they are most relevant to the discussion of settler colonialism, genocide, extractivism, and Bears Ears National Monument.

The 2005 Millennium Ecosystem Assessment provides a central framework for understanding the importance of how the various ecosystems that make up public lands affect human and natural systems, particularly through its explanation of the interconnected nature of ecosystem services, human wellbeing, and the ways in which these factors drive environmental

change. At their core, ecosystem services can be understood as services provided by ecological systems, including plants, animals, microorganisms, and the nonliving environment, that benefit human well-being and broader environmental systems. Ecosystem services can be split into four general categories: provisioning, regulating, supporting, and cultural services. Provisioning services involve the material outputs of ecosystems, including food, water, and other raw materials. Regulating services include climate and air quality regulation, carbon sequestration, natural hazard mitigation, and biological control. Supporting services underscore all aspects of life and include important functions such as nutrient cycling, habitat provision, or maintenance of biodiversity. Finally, cultural services can include recreation, human health, tourism, aesthetics, and spiritual services (Reid et al. 2005, v).

These ecosystem services are inherently linked to human well-being, which is achieved through basic material for good life, health, good social relations, security, and freedom of choice and action (Reid et al. 2005, v). According to the authors of the Millennium Ecosystem Assessment, human well-being and ecosystem services function jointly because humans are an intrinsic part of ecosystems. As a result, human activities that seek to support human well-being are important drivers of environmental change, which can be clearly seen in the protection, management, and degradation of public lands. For example, provisioning services that provide food and clean water underscore the need for resource security and sufficient food essential to human well-being (Reid et al. 2005, v-vi). Understanding this framework is essential to understanding the importance of public lands, the services they provide, and the way in which human societies impact and alter them.

Public lands – including National Parks, BLM land, National Forests, National Monuments, and other land designations – are unique in that they provide all types of ecosystem

services. In recent years, the concept of ecosystem services has been increasingly applied as a framework for managing and protecting public lands. There is, however, a difference in how these ecosystem services are delivered to human systems. Examples of both cultural and provisioning services can be seen clearly on and off of public lands, respectively. That is, cultural services provided by public lands are evident in educational or recreational opportunities on the diverse types of public lands, particularly those controlled by the NPS. Additionally, public lands have the potential to protect sites that are spiritually and culturally important to Indigenous peoples. Alternatively, provisioning services are delivered to the American public off of actual public lands in the form of timber from managed FS lands or cattle produced on BLM rangeland. Less evident are the supporting and regulating services that underpin ecological and human systems. However, supporting services such as nutrient cycling or the maintenance of biodiversity are inherent to all public lands as they preserve ecological intactness and connectivity (Ruhl 2010, 278, 281; *NRDC et al. v. Trump (Bears Ears)* 2019; Rowland-Shea 2017). Similarly, public lands have high potential for carbon sequestration and natural hazard or disaster mitigation, both of which are regulating services (US Congress 2020, 437).

Current land management strategies do, however, still allow for the degradation of these important ecosystem services on public lands. This largely results from the emphasis on the economic values of public lands, which contribute to growth in a variety of sectors. One key example of this is how multiple-use strategies, which are commonly used as a framework for land management, commodify public lands through a primary focus on provisioning services. In practice, current strategies like the BLM and FS's sustained yield approach that prioritize the outputs of public lands – such as minerals, oil and gas, timber, or cattle – directly conflict with the concept of ecosystem services (Deal 2016, 2). These strategies provide the basis for allowing

extractivism on public lands, the exploitative nature of which directly undermines all ecosystem services.

The commodification of public lands through current land management strategies can clearly be seen in timber harvesting on FS and BLM lands. Under congressional authorization, the FS administers 144.9 million acres of forest, 96.1 million acres of which are timberlands. The BLM administers a smaller area of 37.6 million acres of forest, 6.1 million acres of which are timberlands. Each agency follows a multiple-use and sustained yield model, as outlined by the Multiple Use-Sustained Yield Act of 1960, in managing forests and timberlands. In fiscal year 2019, 2.6 billion board feet (BBF) were harvested from FS lands, generating approximately \$166.8 million (FY2019 dollars). In the same period, 206 million board feet (MMBF) were harvested from BLM land, generating \$50.3 million (FY2019 dollars) in revenue. For each agency, Congress specifies various uses for revenue (Riddle 2020). While provisioning services are more regulated under current land management frameworks such as multiple-use and sustained yield models, as they are quantifiable, they are still being degraded in the face of exploitative extractive industries.

A similar trend can be seen in areas where oil and gas leases are permitted on public lands. Oil and gas are extracted from 710 million acres of onshore federal lands that are managed by the BLM, even in land areas generally managed by other federal agencies. In 2019, federal lands accounted for the production of 381 million barrels of crude oil, a 207 percent increase from 2010, and constituted 9 percent of total onshore oil production. Onshore production of natural gas on federal lands has decreased by 11 percent in the same period, totaling approximately 3,730 billion cubic feet and 9 percent of total onshore natural gas production. In fiscal year 2019, oil and gas leases on onshore federal lands generated \$4.202 billion in revenue,

which was disbursed to various states, federal programs, and the U.S. Department of the Treasury (Tracy 2020, 1-3). The Federal Land Policy Management Act of 1976, which directs the use of the BLM's multiple-use and sustained yield land management strategies, requires that "fair market value is to be obtained for use of federal lands" (Tracy 2020, 8). This obligation demonstrates how management policies for public lands continue to prioritize the economic benefits of provisioning services over other important ecosystem services provided by public lands. While oil and gas production is subject to regulations on air pollution, water pollution, and land use restrictions (Tracy 2020, 1), these processes continue to degrade other ecosystem services by contributing to negative environmental outcomes like climate change and habitat disruption.

Many communities in proximity to public lands are experiencing a transition to a service economy created by the recreational opportunities and associated cultural services provided by public lands. In 2020, the outdoor recreation industry yielded \$374.3 billion, accounting for 1.8 percent of the US gross domestic product (Bureau of Economic Analysis 2021). Furthermore, counties with land managed for conservation and recreation consistently demonstrate greater economic growth than those with land used for commodity extraction. This transition has the potential to create more stable economies and long-term economic growth, rather than supporting boom-bust cycles created when local economic systems are based on extraction (Lorah 2019).

Some of this economic growth is driven by an influx of amenity migrants, who are predominantly knowledge workers with economic mobility (Lorah 2019). Amenity migration, therefore, has the potential to contribute to rural gentrification, which can displace local populations through an increase in the cost of living. This, in turn, contributes to the

commodification of rural landscapes (Abrams and Gosnell 2011, 308) that mirrors the fabrication of the conception of wilderness and American ideals such as rugged individualism and manifest destiny, which will be discussed in further detail. It is also important to note that these systems of economic valuation are based on American capitalism, which was preceded by mercantile capitalism, a primary driver of settler colonialism (Dunbar-Ortiz 2014, 8).

Existing land management strategies fail to take a holistic approach to the valuation of public lands in line with the concept of ecosystem services. The current emphasis on provisioning and, to a lesser extent, cultural services is driven by the direct economic benefits of each, leaving other ecosystem services vulnerable to higher levels of degradation. For example, oil and gas extraction on public lands can dramatically impact regulating services, such as the mitigation of global climate change and its effects. This can be seen in the impact of fossil fuel extraction on public lands, which constitutes almost one-quarter of total U.S. carbon dioxide emissions when examined from the point of extraction to the burning of fossil fuels. This, in turn, threatens the capacity for carbon sequestration on public lands, thus making public lands a net emitter of greenhouse gases (US Congress 2020, 14). Forms of extractivism also directly threaten important supporting services, namely the capacity of public lands for nutrient cycling and maintenance of biodiversity. These detrimental effects demonstrate the importance of using ecosystem services as a framework for managing public lands and the resources they provide.

A primary reason the status of Bears Ears National Monument has become such a politically contested issue is the large number of ecosystem services provided by the landscape. In the initial designation, Obama pointed to the environmental, scientific, cultural, and historical value of the Bears Ears region. In his justification of the designation, he stated “From earth to sky, the region is unsurpassed in wonders” and that “Communities have depended on the

resources of the region for hundreds of generations” (US President 2016, 1141). In his redesignation Biden stated that protection of Bears Ears National Monument “will preserve its spiritual, cultural, prehistoric, and historic legacy and maintain its diverse array of natural and scientific resources, ensuring that [these values] remain for the benefit of all Americans” (US President 2016, 57330). In doing so, Biden highlighted the provisioning, regulating, supporting, and cultural services provided by Bears Ears that have underscored much of the human and natural history of the region.

Bears Ears National Monument also provides an example of the tension between an overemphasis on provisioning services and the degradation of all other ecosystem services and human well-being. In contrast with the initial designation’s emphasis on the variety of ecosystem services provided by the Bears Ears, Trump’s 2017 repeal of the monument was motivated by the provisioning services and resources provided by the landscape with direct economic benefits, namely uranium mining and similar forms of extractivism (Turkewitz 2017). The decision was heavily influenced by lobbying efforts from Energy Fuels Inc., the U.S. subsidiary of a Canadian uranium producer, which has uranium mining claims in the Bears Ears region. While the national monument designation would not affect existing claims, it has the potential to drive up the cost of uranium mining by necessitating additional permits for things like road construction. This is significant as the market price of uranium has already made uranium mining in the United States unsustainable, at roughly \$20 to \$25 per pound rather than a profitable \$40 to \$50 per pound. However, company officials expect the higher market price to be met with the construction of nuclear plants on a global scale (Eilperin 2017).

The effects of uranium extraction directly undermine positive regulating services provided by public lands, such as water purification and regulation. Uranium extraction on Bears

Bears Ears National Monument has the potential to contaminate water sources often used for drinking water on and near the Diné Nation. On the Diné Reservation, access to public water regulated by the United States or Diné Nation Environmental Protection Agencies (EPA) is limited. Up to 30 percent of the population, or approximately 54,000 people, access water from unregulated sources, including through livestock wells, springs, or private wells. While there is a lack of data regarding the contamination of these wells due to a lack of monitoring, the U.S. EPA suggests that there is a high potential for contamination from uranium mining (US Environmental Protection Agency 2008, 17). Land designation decisions that prioritize mining leases over public health and water quality ignore the importance of balancing all ecosystem services that contribute to human well-being in the creation of public lands policy and management strategies.

The reduction of Bears Ears National Monument also demonstrates the threat land grabs and extractivism pose in the degradation of supporting services. According to a study conducted by the Center for American Progress, the monument is in the top ten percent of similarly sized areas for ecological intactness and connectivity, which could be jeopardized if opened to oil and gas drilling and uranium mining. Additionally, it is home to eighteen species listed under the Endangered Species Act, giving it a high score for levels of biodiversity (Rowland-Shea 2017). Recent studies have found that biodiversity loss has similar implications for global ecological systems and global climate change. High rates of biodiversity loss are driving a probable sixth mass extinction within the next 240 years, as current rates of species extinction are dramatically exceeding background extinction rates. The degradation of this supporting service through extractivism on public lands also has the potential to impact other ecosystem services, including nutrient cycling, natural hazard mitigation, and important provisioning services (Hooper et al. 2012, 105-7).

While the degradation of ecosystem services on public lands has a pronounced impact on Indigenous communities across all ecosystem services, this can be seen most clearly when examining cultural services. Land designation and management strategies created by the U.S. government are inherently colonial, as they have primarily relied on the removal and subjugation of Indigenous peoples throughout history. In the initial establishment of many National Parks, the removal of Indigenous peoples threatened the cultural services provided by different landscapes. For example, the establishment of Yellowstone National Park limited access to spiritually important mountains, which were used as sites for vision quests for the various tribes in the area (Spence 2000, 44). Similarly, opening public lands to extractive industries directly threatens the preservation of Indigenous history.

The reduction of Bears Ears National Monument provides an example of the degradation of cultural services provided by public lands, as the monument protects culturally, historically, and spiritually significant archaeological and natural sites. This degradation has the potential to be widespread, as extractivism creates a demand for the construction of infrastructure, such as roads, which could cause further damage to sacred lands (*NRDC et al. v. Trump (Bears Ears)* 2019). Furthermore, the public health impacts perpetuate the violence brought against Indigenous communities under settler-colonial systems. This is directly tied to the cultural services provided by Bears Ears, as land protection directly contributes to the health and human well-being of Indigenous populations through the preservation of Indigenous history and spirituality.

A fundamental understanding of the role of ecosystem services and human well-being in the creation of public lands policy and land management strategy is key to understanding how ignoring these factors has placed an undue burden on Indigenous communities throughout U.S.

history. Beginning with settler colonialism, attitudes surrounding the preservation and protection of land have largely ignored these concepts when it comes to the well-being of Indigenous populations and traditional knowledge systems. The remainder of this thesis will attempt to contextualize these ideas by exploring the history and current state of land policy in the United States and the associated impacts.

Chapter 2: Environmental History: Settler Colonialism, Violence, and Land Grabs

The concept of land – particularly who controls it and the ecosystem services it provides – underscores almost every aspect of the United States’ history and culture (Dunbar-Ortiz 2014, 1). According to historian and author Roxanne Dunbar-Ortiz, the motivations behind land and resource exploitation in the early American colonies were largely a result of settler colonialism backed by European corporations and government armies. Integral to settler colonialism is the perpetration of violence or threat of violence against the native population (Dunbar-Ortiz 2014, 6). Within the context of land control, the idea of settler colonialism, which is inherent to the founding of the United States, is aimed at removing Indigenous peoples from their land to make it available for colonizers through government policy, militias, and individual settler action (Dunbar-Ortiz 2014, 10).

In the United States, the very idea of public lands is an extension of the settler-colonial need to dominate nature and Indigenous peoples of North America. The goal of this domination, which was perpetrated by early American settlers, was not only obtaining control over land and resources, but the removal and widespread murder of Indigenous peoples (Dunbar-Ortiz 2014, 6). While not legally recognized as genocide, this systematic killing of Indigenous peoples through direct violence, removal from culturally important lands, and other methods of cultural

erasure is “inherently genocidal in terms of the genocide convention” (Dunbar-Ortiz 2014, 9). The U.S. history and the legacy of Indigenous trauma cannot be understood without this contextualization and understanding of the violence as a form of genocide, even in absence of a legal framework or designation.

As defined by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide (the Genocide Convention), genocide is the, in part or whole, killing, causation of bodily or mental harm, creation of conditions leading to physical destruction, prevention of births, or forcible transfer of children from “a national, ethnical, racial or religious group” (United Nations General Assembly 1948). The legal determination of an event as genocide is done to establish State or individual criminal responsibility for the crime of genocide and is carried out by a competent international or national court of law. Although the Genocide Convention acknowledges that cases of genocide have occurred throughout history, an event can only be legally considered genocide if it has taken place after the Genocide Convention was ratified. As a result, instances of mass violence – such as in the case of the violence perpetrated against Indigenous peoples throughout the history of the United States – cannot legally be considered genocide. Similarly, modern forms of violence against Indigenous peoples such as the public health crisis created by uranium mining in the Diné Nation or cultural destruction resulting from land grabs are unlikely to be legally considered genocide as the Genocide Convention requires proof of intent (United Nations Office of Genocide Prevention, n.d., 1-2). The framework for genocide created by the Genocide Convention is, nonetheless, instrumental in conceptualizing the devastating and lasting impacts of the violence carried out against Indigenous peoples under settler colonialism.

Genocide against Indigenous peoples under the U.S. governmental system founded on settler colonialism can be split into four distinct periods: “the Jacksonian era of forced removal; the California Gold Rush in Northern CA; the post-Civil War era of the so-called Indian Wars in the Great Plains; and the 1950s termination period” (Dunbar-Ortiz 2014, 9). Each respective period has involved forms of violence against Indigenous peoples, including torture, terror, sexual abuse, massacres, systematic military occupations, the forced removal of Indigenous peoples from ancestral territories, and the forced removal of Indigenous children to non-Indigenous boarding schools aimed at cultural assimilation and Indigenous erasure (Dunbar-Ortiz 2014, 9). Additionally, each period has been underscored by the theft of land as a form of violence against Indigenous peoples.

The establishment of the reservation system in the mid-19th century represents a form of cultural and physical genocide brought against Indigenous peoples in the United States. Reservations were largely created because “America’s manifest destiny required the physical or cultural destruction of all Native peoples” (Spence 2000, 30). As settlers reached the west coast of the contemporary United States, they needed a physical means of control over Indigenous peoples and land areas (Spence 2000, 30). Over time, the Western conception of a reservation changed from the delineation of a smaller land area “in exchange for U.S. government protection from settlers and the provision of social services” to a gift given to Native Nations born of American benevolence (Dunbar-Ortiz 2014, 21). Negative outcomes like high rates of poverty on reservations, which coincide with high rates of alcoholism and suicide, directly result from the denial of the sovereignty of Native nations by settler-colonial policies, ideals, and systems (Dunbar-Ortiz 2014, 211). In this way, the reservation system has continuously operationalized violence as a tool of settler colonialism against Native nations, communities, and individuals.

The forced assimilation of Indigenous peoples was also used as a tool to uphold land grabs and cultural and physical genocide. One key way in which this was achieved was by forcing Indigenous children to attend boarding schools where they were stripped of their culture and history. From 1860 to 1978, government-sponsored boarding schools created by the 1819 Civilization Fund Act were used as an assimilationist policy and form of Indigenous erasure. Students in these boarding schools, one-third of which were run by Christian missionaries, were forced to cut their hair, wear uniforms, and banned from speaking Native languages. They also functioned as an instrument for violence, as Indigenous children experienced physical violence, sexual abuse, and the deprivation of food and medical care (Pember 2019). Within the context of these residential schools, settler-colonial violence and Indigenous erasure were attempted in the false pursuit of ‘civilization’

Because methods of irregular warfare that were pioneered against Indigenous peoples such as extreme violence against civilian women, children, and elderly have become standard practice in some U.S. army operations (Dunbar-Ortiz 2014, 59), the threat of genocide is constant for Indigenous populations in the United States. Just because domination has been achieved and direct war has ended does not mean the mechanisms for genocide have ceased to exist. The exploitation of Indigenous land for the benefit of extractive industries also creates a potential for the final destruction of Indigenous land bases and resources (Dunbar-Ortiz 2014, 10), thus presenting a possible fifth period of genocide in the absence of implementation of the policy recommendations put forth in Chapter 5.

The connection between settler colonialism and public lands can be seen in the establishment of the first official national parks in the early 1900s, which involved the removal of Indigenous peoples from historically, culturally, and spiritually significant lands (Spence

2000, 4). While there were differing ideas and policies surrounding the land rights or removal of Indigenous populations who resided on lands that would become some of America's most famous national parks, many policies were driven by the fear that Native peoples would harm natural ecosystems and frighten tourists. These fears operated in conjunction with the desire of many U.S. citizens and officials to force the assimilation of Indigenous peoples through the creation of the reservation system, thus justifying the legal subjugation and violence carried out in the establishment of national parks (Spence 2000, 109).

The creation of national parks also perpetuated the historical and cultural erasure of Indigenous nations, as it replaced the human histories of North America with fabricated natural histories. These new natural histories sparked national interest in ideas like the 'discovery' of natural monuments in places like Yosemite or the conception of the 'ecologically noble savage' (Spence 2000, 29). Central to understanding the conception of the ecosystems that make up public lands in the United States is the idea that wilderness is not an absolute condition, but an American creation (Spence 2000, 5). The image of the 'ecologically noble savage' perpetuates the idea of 'the pristine myth', a term coined by geographer William Deneven, which holds that, when colonizers came to North America, it was undisturbed by human activity and was true wilderness (Mann 2002). In fact, had North America been an uncultivated wilderness as this myth puts forth, colonizers may not have been able to survive. They instead relied heavily on the existence of advanced technology and networks of infrastructure established by Native peoples (Dunbar-Ortiz 2014, 46). However, by creating the idea of a previously uncultivated and uninhabited region that has characterized "the West" for much of modern history, colonizers were able to justify national attitudes that underscored concepts such as rugged individualism and manifest destiny.

Equally important is understanding the language and concepts used to refer to Indigenous peoples in the US, which have come to shape our current conceptions of natural and human history. The idea of the ‘ecologically noble savage’ originates from romanticized depictions of Indigenous peoples in the United States. It largely came from the writings of Jean Jacques Rousseau, who coined the term in his contrast of the liberty of Indigenous peoples with the “virtual enslavement of the Europeans” (Weatherford 160). However, throughout history, it has often conveyed an image of primitive, unsophisticated human beings that lived in accordance with the natural world, while emphasizing environmental conservation and a kind of hyper-egalitarianism (Weatherford 168). Since the ‘discovery’ of the New World, non-Indigenous peoples have attempted to force Indigenous peoples to fit into the stereotype of the ‘ecologically noble savage’, whether physically or within the cultural narrative, while seeking to disenfranchise them through land grabs and exclusion from political processes. This, in turn, undermines the very idea of radical egalitarianism and connection to natural systems on which their image of Indigenous peoples was based (Weatherford 168). In modernity, this idea perpetuates a view of Indigenous culture as archaic and attempts to limit Indigenous cultural identity by promoting the notion that all Indigenous peoples have an innate sense of respect for and knowledge of the environment (Nelson 2006).

These ideas are born out of a fundamental difference in environmental worldviews between Indigenous peoples and European colonizers. Conceptions of, interactions with, and use of natural systems and ecosystem services by Indigenous peoples represent an environmental wisdom worldview. The ‘environmental wisdom’ worldview states that humans are a part of nature and dependent on it, therefore, humans should attempt to mirror ecological systems. It is an Earth-centered worldview, holding that humans, non-human animals, and plants should all be

viewed and sustained equally. This is not only just, but helps to maintain natural ecological services. In addition, the three main principles of sustainability – solar power, nutrient cycling, and biodiversity – should be incorporated into and power all human activity. The goal of individuals who hold this worldview is to emulate these principles in societal, technological, and economic shifts (Miller 2015).

Alternatively, conceptions of nature consistent with settler colonialism represent an anthropocentric planetary management worldview. The planetary management worldview holds that humans are separate from nature and should manage ecological systems to fit human needs. It maintains that humans have the ability to develop technology to sustain ecological systems, so human societal and economic growth can be unlimited. However, this uninhibited growth depends on diligent management of the Earth's natural systems and resources (Miller 2015). Generally, sustaining human activity is prioritized over the health of ecological systems and other species. This concept is clearly reflected in current public lands management strategies, such as those that prioritize the economic benefit of provisioning services over all other ecosystem services and human well-being.

Ideas surrounding Indigenous peoples and land philosophies are not only imbued in policy decisions regarding the creation and management of public lands, but have pervaded American culture and collective conscience throughout history as an extension of settler colonialism. Although many colonizers who entered the western half of the current United States had different intentions – as exemplified when comparing the goals of early 'explorers' who considered Indigenous peoples an integral part of the landscape with those who directly promoted Indigenous removal – they all fundamentally promoted an outcome unachievable without the removal of Native Americans from land and the entrenchment of an idea of

separation of humans and natural systems in American culture (Spence 2000, 27). In modernity, these ideas have translated to a general cultural attitude of land domination and control as a form of ongoing colonialism, which is reflected in many public lands policy and management decisions.

This kind of modern colonialism is anchored by the logic of genocide, one of the three pillars of white supremacy as defined by Andrea Smith. Smith argues that Indigenous peoples “must always be disappearing, in order to enable non-indigenous peoples’ rightful claim to land” (Smith 2012, 69). By encouraging the disappearance of Indigenous peoples from their land, non-indigenous peoples are able to claim Indigenous land, culture, and spirituality (Smith 2012, 69). The idea of modern colonialism also separates Indigenous peoples from other minority ethnic and racial groups classifying them as nations undergoing colonization, rather than groups experiencing racial discrimination (Smith 2012, 66). Understanding settler colonialism and Indigenous genocide as separate from other aspects of white supremacy, such as anti-Black racism, is essential to contextualizing the modern impacts of settler colonialism, genocide, and white supremacy on Indigenous peoples and their rights.

Within this framework of colonialism, genocide occurs on a cultural and physical level. Increased forced assimilation into white American culture, which is often falsely equated to increased independence, is one example of historical and modern cultural genocide against Indigenous peoples. This can be seen in the establishment of settler-colonial tools of domination, such as residential schools. In the case of residential schools, “whiteness” was offered as a tool for independence (Smith 2012, 73-74). Today, physical genocide occurs in a more subtle way than it has throughout history. According to Indigenous activists and authors Pieratos, Manning, and Tilsen, “[Indigenous peoples’] symptoms of oppression, for example, suicide, poverty, and

diabetes are all rooted in [the] loss of land” (Pieratos et al. 2021, 51). It can be seen in examples including modern land grabs that allow extractive industries to exploit land and people, such as in the repeal of Bears Ears National Monument, and the disproportionate negative effects of “dirty” industries on Indigenous populations.

Ongoing attacks on Indigenous sovereignty as an extension of settler colonialism have also manifested in the form of various hate groups and conflicts. One example of this can be seen in the Citizens Equal Rights Alliance, “a nonprofit that advocates abolishing tribal sovereignty, treaties and Native American governments, and claims most federal Indian policy is unconstitutional” (Wiles 2018). Recent public lands discussions have united this group with the Sagebrush Rebellion, a radical fringe movement advocating for state and local control of federal lands. Attempts to promote this ideology have resulted in violence, such as in the 2016 conflict between ranchers and the U.S. government following the armed occupation of Oregon’s Malheur National Wildlife Refuge by members of the Sagebrush Rebellion. These two groups converged under the general thinking that federal land policies favor Indigenous nations. In pursuing each group’s respective agenda, they undermine the sovereignty of Native nations, particularly as they relate to the management of ancestral lands (Wiles 2018).

The 2017 reduction of Bears Ears National Monument also serves as an example of modern colonialism. Trump’s decision to repeal the designation of Bears Ears National Monument effectively reaffirmed the United States’ control of Indigenous nations, continued the oppression of Indigenous groups, and marginalized Indigenous voices in politics. This loss of political control, sovereignty, and culturally significant areas and artifacts has been seen as a pattern throughout the history of settler colonialism in the United States. The establishment of Bears Ears as a national monument was largely a result of advocacy on the part of Indigenous

tribes and, as a result, functions as a symbol of the increased political influence of Native nations. The decision to repeal the designation of Bears Ears directly undermines the political power Indigenous peoples have gained through Indigenous rights movements.

The establishment of Bears Ears as a national monument also protects culturally, historically, and spiritually significant archaeological and natural sites. Because Native American tradition dictates that artifacts and bodies cannot be removed from their location, both will be destroyed with the development of Bears Ears (Harold, n.d.). The reduction of Bears Ears, therefore, perpetuates the historical and cultural erasure of Indigenous peoples under settler-colonial systems, as it prioritizes American economic growth and development over the needs of Indigenous peoples. This subversion of Indigenous authority is a form of cultural genocide as it leaves these places vulnerable to destruction and sets a dangerous precedent for similar actions.

In addition, placing the interests of oil, gas, and mining companies ahead of the needs of Indigenous tribes continues the practice of physical genocide committed against Indigenous peoples. One of the main industries expected to take place in the formerly designated land area is uranium mining. The process of uranium mining and associated byproducts exposes local populations to radioactive material, which can cause birth defects in fetuses and infants, bronchial and lung cancers, leukemia and other blood diseases, psychological disorders, and a variety of other cancers. Radiation from uranium mines can also kill local plant and animal species (Lewis et al. 2017). These detrimental health effects, which will be discussed in further detail, will disproportionately affect Indigenous tribes who return to the Bears Ears area to hunt, hold traditional ceremonies, and collect plants that hold spiritual significance. Therefore, the

reduction of Bears Ears for the use of private industry is an issue of environmental racism and continuation of genocide perpetrated by settler colonialism.

Chapter 3: The Legality of Land Grabs

The U.S. government recognizes 573 sovereign Indigenous tribes, which are legally defined as “federally recognized tribes.” Their sovereignty is recognized in the U.S. Constitution and multiple subsequent contractual agreements, including treaties, executive orders, and laws, which have affirmed tribal sovereignty and a formal nation-to-nation relationship between Native nations and the U.S. government. These treaties, which ceded millions of acres of land to the U.S. government, theoretically ensure the protection of tribal lands and sovereignty through the establishment of a trust responsibility (National Congress of American Indians, n.d.). Indigenous nations are also independent of the state or states in which they are located and with which they have a government-to-government relationship.

Because federally recognized tribes are considered to be “domestic dependent nations” independent of the state or states in which their territories are located, Indigenous nations have sovereignty over tribal members and territory. However, sovereignty over land area and members is subject to overriding federal power (Kalt and Singer 2004, 16). This sovereignty is protected by the federal trust relationship between Native nations and the U.S. federal government, which is legally enforceable and protects the rights and sovereignty of Indigenous nations (Bureau of Indian Affairs, n.d.). It is, however, important to note that sovereignty was only granted to Native American nations after centuries of violence and the subjugation of Indigenous peoples, thus creating a foundation for these federal policies. Additionally, ascribing the term “domestic dependent nations” to federally recognized tribes perpetuates the detrimental political, economic,

and sociological impacts of settler colonialism, creating a type of conditional sovereignty (Pieratos et al. 2021, 60-1).

Legal discussions surrounding the designation and management of public lands rely on a fundamental understanding of the legal implications of different land designations, which differ based on the designation and management body. As discussed in Chapter 1, land designations can range from fairly restricted such as in the case of the National Parks System to multiple-use areas like rangeland managed by the BLM. Outside of the frameworks created by managing agencies, federal laws can provide guidelines for land management policies and plans. For example, the Wilderness Act of 1964 provides for a wilderness designation that bars most human activity or infrastructure to preserve natural systems “untrammeled by man” (Comay et al. 2021, 6). Congress also has the capacity to create site-specific laws in addition to these general frameworks (Comay et al. 2021, 4).

Most relevant to this thesis is the management framework created by the designation of a national monument. National monuments can be created through individual statutes from Congress or by invocation of the Antiquities Act of 1906 by the acting president, as seen in the establishment of Bears Ears National Monument. The Antiquities Act puts forth that areas with historic landmarks, historic or prehistoric structures, or scientific interest on federally controlled land may be declared as national monuments (Comay et al. 2021, 6). Furthermore, it states that parcels of land encompassed in the national monument designation “shall be confined to the smallest area compatible with the proper care and management of the objects to be protected” (Antiquities Act 1906). While National Monument designations generally equate to increased land protections, the management frameworks can vary and are determined by the administering agency.

In the case of Bears Ears National Monument, the national monument designation was intended to “preserve [Bears Ears’] cultural, prehistoric, and historic legacy and maintain its diverse array of natural and scientific resources” (US President 2016, 1142). The original version of the monument was mapped by Utah Diné Bikéyah, a non-governmental group from the Diné Nation focused on protecting Bears Ears, and later proposed by the group of five tribes represented in the Bears Ears Inter-Tribal Coalition, formed by the Hopi Tribe, Zuni Tribe, Ute Mountain Ute Tribe, Uintah and Ouray Ute Tribes, and Diné Nation in 2015 (Gessner 2018; Harold, n.d.). The original designation included 1.35 million acres in southeastern Utah (Popovich 2017) and contained over 100,000 culturally and historically significant Indigenous sites (Gessner 2018). Obama’s declaration also cited access to recreational opportunities, such as rock climbing, hiking, and whitewater rafting, and the associated economic benefits for surrounding communities in support of designation as a national monument (US President 2016, 1143).

The designation gave both the FS and BLM management responsibilities, with the former managing the area of Bears Ears National Monument within the existing Manti-La Sal National Forest. The BLM was tasked with managing all other areas of Bears Ears National Monument as a unit of the National Conservation Lands system (US President 2016, 1143), which incorporates conservation into the BLM’s multiple-use and sustained yield mission and management strategy (Bureau of Land Management, n.d.). The designation also intended that the Secretaries of each agency create a joint management plan in consultation with local federal land management agencies, federally recognized tribes, and State and local governments (US President 2016, 1143-4).

Obama's declaration also necessitated the creation of an advisory committee for the development of a management plan for the monument, with representation from all stakeholders including state and local governments, tribes, recreational users, local business owners, and private landowners, in accordance with the Federal Advisory Committee Act (US President 2016, 1144). Because this designation was primarily a result of the efforts of Indigenous nations with historic and cultural ties to the landscape, members of the Bears Ears Inter-Tribal Coalition were also given an advisory role in managing the Monument (Doshi 2021). In addition to the advisory committee required, the initial establishment of Bears Ears as a national monument called for the creation of a Bears Ears Commission with representation from Indigenous stakeholders "to provide guidance and recommendations on the development and implementation of management plans and on management of the monument" (US President 2016, 1144). The Commission included an elected officer from all tribes represented in the Bears Ears Inter-Tribal Coalition, including the Hopi Nation, Diné Nation, Ute Mountain Ute Tribe, Ute Indian Tribe of the Uintah Ouray, and Zuni Tribe (US President 2016, 1144).

The use of executive order to designate Bears Ears National Monument left it vulnerable to changing politics and interests at the executive level. Following an executive order by Trump to review national monuments designated after 1996, the DOI and former Secretary of the Interior Ryan Zinke suggested that the boundaries be revised "through the appropriate authority" as the original area exceeded the necessary boundaries for protection. Zinke also recommended that tribal co-management be authorized, congressional conservation designations be established for some areas within the monument, and management practices in wilderness areas be clarified by Congress. Importantly, these recommendations relied on congressional action rather than executive authority for changing the boundaries of Bears Ears National Monument (Tipple

2017). However, Trump proceeded to repeal the original monument designation, arguing that this and similar invocations of the Antiquities Act exceeded the provision of the act, which allows the president to designate “the smallest area compatible with the proper care and management of the objects to be protected” (Antiquities Act 1906; Tipple 2017). Other probable motivations include opening the land up to new leases for oil and gas drilling and uranium mining, both of which were prohibited under the national monument designation. This move was supported by some individuals in Utah who argue that the decision to designate Bears Ears and other national monuments was an overreach of executive authority that limited the capacity of Utah to control its own natural resources (Turkewitz 2017).

Following “President Trump’s unlawful attempt to revoke and replace a national monument of major historic and scientific importance in violation of the United States Constitution and the Antiquities Act of 1906”, the Bears Ears Inter-Tribal Coalition filed the lawsuit *Hopi Tribe et al. v. Donald J. Trump et al.* (Hopi Tribe et al. 2019, 1). The plaintiffs argued that Trump knowingly exceeded the limits of his executive power in reducing the size of the monument because the Antiquities Act does not authorize the president to repeal designations by proclamation (Hopi Tribe et al. 2019, 1). According to legal scholars, Trump’s repeal of Bears Ears National Monument violates the delegation of congressional authority in creating land designations, which was kept intentionally narrow to limit the capacity of executive action. Precedent also reflects this intention of the Antiquities Act, which only permits the president to designate land areas as national monuments, not revoke or shrink them. In contrast, other congressional delegations regarding land designations do explicitly permit the president to revoke or modify said delegations, such as outlined in the Forest Service Organic Act (Brief Amicus Curiae 2019).

The Inter-Tribal Coalition also cited the historical, scientific, spiritual, and cultural importance of Bears Ears to defend the 2016 monument designation. The case quotes Phillip Vincenti, a Zuni man, saying “The importance of Bears Ears for our people is through our ancestral sites that were left behind eons ago by our ancestors. They documented the sites by using oral history, pictographs, and by leaving their belongings. When we visit Bears Ears, we connect with our migration history immediately without doubt” (*Hopi Tribe et al.* 2019, 21). According to Indigenous tribes and environmental groups fighting the repeal of the monument, many areas left out of the new boundaries of Bears Ears leave culturally significant sites susceptible to looting, vandalism, and development (Popovich 2017). The demonstrated cultural and spiritual connection to the land separates *Hopi Tribe et al. v. Donald J. Trump et al.* from the numerous other lawsuits pertaining to land rights and the reduction of Bears Ears, as the violation of these land claims has been central to the physical and cultural genocide perpetrated by settler colonialism throughout U.S. history.

One of the most relevant policy frameworks in the discussion of the designation and management of Bears Ears National Monument is the National Environmental Policy Act (NEPA). Largely spurred by environmental activists during the 1960s and 1970s, NEPA is regarded as one of the most important and comprehensive legal frameworks for environmental action in the United States. With the goal of “[creating] and [maintaining] conditions under which man and nature can exist in productive harmony” (NEPA 1969), NEPA set a requirement that all federal agencies create a report on the environmental impacts, unavoidable adverse environmental effects, potential alternatives, the relationship between short-term use and long-term productivity, and resources involved in proposed actions (Council on Environmental Quality 2022). Cases where NEPA is applicable include in the construction of infrastructure,

such as roads; in creating and implementing land management strategies on various kinds of public lands; or in granting permits (US Environmental Protection Agency 2022). NEPA also formally established the Council of Environmental Quality within the executive branch of the government and focuses on the provision of public participation in federal decision-making processes (Council on Environmental Quality 2022; Luther 2008). This can occur through public meetings focused on specific federal actions or public comment periods on drafts of reports generated in response to NEPA.

Under NEPA, proposed actions from a federal agency can fall under three categories: categorical exclusion, requirement of an environmental assessment finding no significant impact, and requirement of an Environmental Impact Statement. Categorical exclusion applies when the proposed action does not generally have a significant environmental impact, as detailed by each respective federal agency. When categorical exclusion does not apply, an environmental assessment is prepared to determine whether the proposed action has significant environmental impact. The requirements of the environmental assessment are determined by each federal agency under NEPA, but generally include a discussion of purpose, alternatives, the environmental impact of the proposed action and alternatives, and the agencies consulted. The environmental assessment then triggers the issue of a Finding of No Significant Impact or an environmental impact statement, the latter of which is prepared when a major federal action is expected to have significant impact on the environment. The more detailed environmental impact statement includes detailed accounts of the purpose and need; alternatives; affected environment; environmental consequences; and submitted alternatives, information, and analyses (US Environmental Protection Agency, n.d.). In the case of Bears Ears National Monument, NEPA

required the creation of an Environmental Impact Statement in conjunction with the proposed management plan necessitated in the national monument declaration.

The area considered in the Bears Ears National Monument proposed management plan and environmental impact statement includes the reduced version of the monument, which is composed of the Shash Jáa and Indian Creek Units (Bears Ears National Monument 2019, 1). The primary environmental concerns identified in developing the monument management plan were air resources; cultural resources; fire management; lands and realty; lands with wilderness characteristics; livestock grazing; paleontological and geological resources; recreation; riparian, wetland, and water resources; soil resources; social and economic considerations; special designations; special status species; travel and transportation management; vegetation; visual resources and night skies; wildlife and fisheries; and forestry and woodlands. These concerns were identified and addressed using public and internal scoping and by contacting cooperating agencies and Indigenous tribes (Bears Ears National Monument 2019, 2-3).

Considering the data collected, five alternative monument management plans were proposed, including Alternative A: No Action Alternative and Alternative E, which is preferred by the BLM and the FS (Bears Ears National Monument 2019, 1). Following Alternative A would only involve altering the management plan to exclude areas no longer in the monument as ordered by President Trump. This would continue the practice of banning mineral extraction in the Shash Jáa and Indian Creek Units (Bears Ears National Monument 2019, 4). Alternative E, instead, “would be less prescriptive regarding how uses and activities are managed at the site-specific implementation level and would rely on environmental reviews completed for individual actions to establish appropriate uses and restrictions needed to provide for the proper

care and management of Monument objects and values” (Bears Ears National Monument 2019, 5).

Generally, Alternative E would decrease environmental impact or maintain a similar level as compared to Alternative A. For example, Alternative A limits recreation at some of the most popular cultural sites, while Alternative E increases protections of cultural sites by limiting group sizes and implementing an adaptive approach to limiting impact (Bears Ears National Monument 2019, 6). Similarly, Alternative A leaves 75 percent of the monument open for new land-use authorizations. This would include 202,700 acres, compared to 64,300 in the Indian Creek Unit and 1,500 in the Shash Jáa Unit under Alternative E. As a result, 61 percent of the monument would be designated as avoidance area under Alternative E (Bears Ears National Monument 2019, 7).

However, each option leaves many areas of environmental concern vulnerable in the Shash Jáa and Indian Creek Units. All land management actions leave air resources vulnerable to particulate matter and emissions from vehicles (Bears Ears National Monument 2019, 6) and neither option provides any protection for wilderness characteristics (Bears Ears National Monument 2019, 8). In addition, each plan leaves 82,729 acres open for woodland harvest (Bears Ears National Monument 2019, 11). Both management plans also allow for surface-disturbing activities, which could increase the vulnerability of special status species within Bears Ears (Bears Ears National Monument 2019, 10). These factors could potentially jeopardize the high levels of ecological intactness, connectivity, and species diversity in Bears Ears.

On October 8, 2021, Biden invoked both the Antiquities Act and Obama’s Proclamation 9558, which put forth the original designation Bears Ears National Monument, to redesignate the entire Bears Ears region as a national monument. The new designation contains 1.36 million

acres, a small expansion from Obama's original designation. This expansion incorporates an additional 11,200 acres that were added under Trump's Proclamation 9681, which reduced the overall size of the monument. The proclamation stated that "the boundaries described... are confined to the smallest area compatible with the proper care and management of the objects of historic or scientific interest identified above and in Proclamation 9558", in line with the language of the Antiquities Act and Trump's justification for modifying the Monument's boundaries (US President 2021, 57331).

The reduction of Bears Ears National Monument provides an example of the continued erosion of Indigenous political sovereignty and the subversion of previous legal agreements granting land protection. Trump's decision to repeal the designation continues the oppression of Indigenous peoples in the United States and marginalizes their voices in politics. This loss of political control, sovereignty, and culturally significant areas and artifacts has been seen as a pattern throughout the history of settler colonialism in the United States. Because the establishment of Bears Ears as a National Monument was largely a result of advocacy on the part of Indigenous tribes, it functions as a symbol of the political influence they have gained. In addition, the establishment of Bears Ears protects culturally, historically, and spiritually significant archaeological and natural sites, the protection of which directly correlates with the preservation of Indigenous history and culture (Harold). In repealing the designation of Bears Ears national monument, Trump directly undermined the political power and sovereignty of Indigenous peoples. The subversion of Indigenous authority perpetuates forms of cultural genocide, sets a dangerous precedent, and creates a need for the policy recommendations presented in chapter 5.

Chapter 4: Burdens of Extractivism: Public Health and Environmental Injustice

There has been a significant decline in both the individual health and public health of Indigenous peoples beginning at the time of colonization. While health statuses vary across different Native populations, general trends of morbidity and mortality show higher rates of infectious and chronic disease among Native populations when compared to white populations. The health disparities experienced by Native populations can include an earlier onset of diseases; higher prevalence and risk of diabetes, obesity, and hepatitis; and higher risk for behavioral issues including suicide and substance abuse. Additionally, infant death rates are 60 percent higher for Native Americans when compared to white Americans. The health conditions most prevalent among Indigenous populations are largely born out of socio-economic, social, and environmental factors and determinants such as lifestyle, genetics, rates of poverty, and environmental exposure, many of which have been created or influenced by settler-colonial systems. These factors are also exacerbated by barriers to healthcare access in Indigenous communities (Mitchell 2018, 99). While many health outcomes are overlapping and interrelated, this thesis will primarily focus on the individual and public health impacts of extractive industries operating in and around Native communities.

The legacy of settler colonialism in the United States has clear public health implications, as harmful extractive industries are allowed to operate in areas populated by Indigenous communities and on public lands. Because settler societies achieved prosperity based on stolen lands, extractive economies, and genocide and displacement, these factors are all linked at the base of the U.S. economic and political system (Pieratos et al. 2021, 58). As discussed in Chapter 1, extractive industries are permitted to operate on public lands because current land management frameworks prioritize provisioning services over cultural, supporting, and

regulating services and human well-being. The presence of these extractive industries, in turn, is often correlated with negative health outcomes for local populations. Most extractivism takes place on lands managed by the BLM and FS under the principle of multiple-use and sustained yield, such as in the Bears Ears region.

A significant majority of negative health outcomes in Indigenous communities can be traced to mechanisms and impacts of settler colonialism. Under systems of colonization, polluting industries and infrastructures were placed in colonized areas and communities without free, prior, or informed consent. This, in turn, contributed to higher rates of poverty than the national average, negative public health outcomes, and a shift away from traditional lifestyles due to the degradation of natural systems. Most health impacts resulting from environmental pollutants are attributed to the consumption of contaminated water and food in Indigenous communities, which is exacerbated by higher consumption of animal parts in which pollutants accumulate, such as fatty tissue. Common negative health outcomes that result from unjust environmental factors include problems in immune systems, increased hypertension and neurodevelopmental effects, higher rates of cancer incidence and mortality, cardiovascular disease, and kidney disease. Negative health outcomes associated with traditional forms of consumption can also lead to a decrease in traditional knowledge, as traditionally harvested plant and animal resources become contaminated through polluting activities (Fernández-Llamazares et al. 2019, 325, 329-330).

One clear example of the prioritization of extractive industries and economies over the health and safety of Indigenous peoples can be seen in the placement of uranium mines in proximity to Native American communities. For the Diné Nation in the four corners region of the United States, the history of uranium mining has involved the exploitation of miners and has

contributed to a lasting public health crisis in Native communities in proximity to abandoned mines and other sites associated with the extraction and processing of uranium (Brugge and Goble 2002). The disproportionate negative health impacts of uranium mining in Diné populations show how white supremacy and settler colonialism have impacted environmental and public health policy, thus creating situations of environmental injustice.

Uranium mining began in the western half of the United States during World War II to support the Manhattan Project and the development of an atomic bomb. At this time, the U.S. government was the sole purchaser of uranium, as designated by law. However, after a decline in demand from the U.S. government in the late 1960s, commercial consumption of uranium began to rise in the 1970s and 1980s. On and near the Diné Nation, uranium mining began in 1948, peaked in 1955 and 1956, and significantly declined by 1967 (Brugge and Goble 2002). However, negative public health impacts have emerged following the years of active mining from an estimated remaining 520 abandoned uranium mines, four abandoned uranium mills, and more than 1,100 waste sites on Diné land. While this thesis focuses primarily on the impacts of uranium mining in and near the Diné Nation, these impacts are reflected across different Native nations, as an estimated total of 600,000 Native Americans live within 10 kilometers of abandoned hard rock mines (Lewis et al. 2017).

The process of uranium mining and associated byproducts exposes local populations to radioactive material, including arsenic, copper, molybdenum, nickel, selenium, uranium, and vanadium. Exposure to these radioactive materials can cause bronchial and lung cancers, leukemia and other blood diseases, neurocognitive disorders, and a variety of other cancers. Additionally, a 1981 study found that Diné infants had higher rates of congenital abnormalities, developmental disorders, and other adverse birth outcomes that were correlated with maternal

proximity to uranium mines, tailings, or mine dumps. Studies have also found that populations living in proximity to abandoned uranium mines are more likely to have kidney disease or hypertension and develop multiple chronic diseases linked to mine waste (Lewis et al. 2017). Finally, rates of silicosis, tuberculosis, pneumonia, emphysema, and non-malignant respiratory disease have led to deaths in uranium miners at similarly elevated rates to lung cancer (Brugge and Gobler 2002). While there is a gap in research, more recent assessments of the health impacts of uranium mining on and near the Diné Nation have corroborated these findings, indicating a pronounced negative impact of uranium mining on Indigenous populations compared to non-Indigenous populations (Lewis et al. 2017).

In more recent history, expansions in extractive industries have posed a direct threat to Diné people living in the western United States on and near the Diné Reservation through potential exposure to harmful materials. This can clearly be seen in Trump's 2017 decision to repeal Bears Ears National Monument to open the land up to oil and gas drilling and uranium mining. When compared to areas of land of a similar size in the region, the land constituting Bears Ears National Monument is in the 69th percentile for mineral resources, the majority of which are uranium (Rowland-Shea 2017). Although uranium mining was not officially cited as a reason for repealing the designation of the Bears Ears region as a national monument, Trump did cite barriers to energy independence coming from a lack of domestic uranium mining in the executive order instructing Zinke to review the area of land. Currently, over 300 mining claims exist within the Monument's original boundaries, of which an estimated one-third are owned by Energy Fuels Inc., a mining company influential in lobbying for the repeal of Bears Ears' designation. While the designation of Bears Ears as a national monument would eliminate all future mining claims in the area, the repeal allows extractive companies including Energy Fuels

Inc. to expand access to and extraction of minerals like uranium in the Bears Ears region (Tabuchi 2018).

The detrimental health effects associated with expanding uranium mining on Bears Ears National Monument will disproportionately affect the Diné people for a variety of reasons. Activities such as harvesting local plants for sustenance and ceremonial or medicinal purposes have the potential to increase exposure of Native American communities to contaminated resources and hazardous waste from uranium mining (Lewis et al. 2017). Additionally, uranium mining has contributed to water insecurity in the Diné Nation as the mining process has depleted limited water supply and uranium mining tailings have contaminated important water sources (Mitchell 2018, 100). Because Bears Ears is a historically, culturally, and spiritually significant landscape for many Native American people, hunting, holding traditional ceremonies, and collecting plants in the area will inevitably result in negative health outcomes primarily impacting Indigenous peoples. This contributes to the continued cultural and physical erasure of Indigenous peoples in the United States, as increased danger or limitations in communities' capacity to carry out traditional activities are a direct threat to cultural preservation.

Public health crises created by the operation of extractive industries on and near federally owned lands, Indigenous ancestral lands, and Native American reservations are a clear example of issues of environmental justice and environmental racism perpetrated by systems of white supremacy and settler colonialism in the United States. The idea of environmental justice centers on protecting people and the environment through factors such as the pursuit of equity, representation in decision making, environmental protection, and social and environmental education. This list, however, is not comprehensive, as conceptions of environmental justice differ and cover an array of topics and issues (Jarratt-Snyder and Nielsen 2020, 3-4; Schlosberg

and Carruthers 2010, 14). According to civil rights leader Benjamin Chavis, environmental racism can be understood as “racial discrimination in the siting of toxic waste dumps and polluting industries, unequal enforcement of environmental laws, and the exclusion of people of color from environmental decision-making” (Schlosberg and Carruthers 2010, 13). This definition highlights the roots of environmental racism in white supremacy and the systematic nature in which it is employed as a form of violence against people of color.

While there are a variety of definitions of and conceptual frameworks surrounding environmental justice and environmental racism, this thesis uses those that prioritize indigenization and decolonization within each theoretical framework. It is important to note that, while environmental justice issues resulting from anti-black racism and settler colonialism are related and have overlapping outcomes, they should be conceptualized differently as they are operationalized through different mechanisms and occur in different contexts (Van Sant et al. 2021, 630). Understanding the specific impacts of settler colonialism on Indigenous peoples and communities as an environmental justice issue provides a distinction between other minority groups experiencing racial discrimination, as opposed to Indigenous nations undergoing settler colonialization. While the term environmental racism is used as an overarching linguistic and conceptual framework, this thesis focuses predominantly on how settler colonialism has distinctly contributed to unjust outcomes in Indigenous populations.

Three key factors distinguish Indigenous environmental justice from broader environmental justice movements and frameworks, including the sovereignty of Native Nations, cultural and spiritual connections to traditional homelands, and the sustained effects of settler colonialism in the United States (Jarratt-Snider and Nielsen 2020, 9-10). Current frameworks that rely on settler-colonial governments and actors to uphold environmental justice are

ineffective (McGregor 2018, 288), as seen in the environmental justice issue created by the repeal of Bears Ears National Monument. Because environmental justice issues facing Indigenous peoples are a clear extension of settler colonialism, Indigenous environmental justice work must involve the indigenization and decolonization of Western conceptions of environmental justice. This should involve prioritizing Indigenous knowledge systems, conceptions of justice, and experience, such as through the creation of a framework that values all relatives in the natural world (McGregor 2018, 280-1, 286). It is important to note that, while decolonization is a process that should be pursued by all members of settler-colonial societies, indigenization belongs solely to Indigenous peoples and communities, as attempts at indigenization from colonizers would only perpetuate the appropriation and erasure of Indigenous peoples and cultures (Sanchez). Furthermore, McGregor argues that Indigenous environmental justice scholars and activists must go beyond indigenization and decolonization to develop distinct frameworks rooted in Indigenous knowledge systems and intellectual traditions to better serve the diverse contexts across distinct Native nations (McGregor 2018, 283).

In the context of settler colonialism, environmental racism can be viewed as a tool of racial capitalism, which is the foundation of the United States' economic system (Van Sant et al. 2021, 632). Because issues of environmental racism and justice affecting Native communities are born out of settler colonialism, mercantile capitalism, and the associated exploitation of humans and natural systems, "Indigenous activists see threats to Native lands as direct assaults not only against their peoples, but also against cultural practices and beliefs, and the ability of their communities to reproduce those traditions" (Schlosberg and Carruthers 2010, 18). In this way, environmental injustices that are a result of settler colonialism, capitalism, and associated

settler-colonial systems are a mechanism of physical and cultural genocide upheld by systems of environmental racism, as discussed in Chapter 2.

An important framework to conceptualize environmental justice issues in Indigenous communities resulting from settler colonialism is capabilities theory, which “examines what is needed to transform available primary goods into the potential for a fully functioning life, and considers what might interrupt that process” (Schlosberg and Caruthers 2010, 15). Conceptions of capabilities theory relevant to Indigenous environmental justice center on the idea that justice should not focus solely on distributive justice, rather on how distribution of goods and resources are “transformed into the capacity for individuals to flourish” (Schlosberg and Caruthers 2010, 15). In short, capabilities theory focuses on how individuals conceptualize and actualize human well-being based on their historical, cultural, and spiritual contexts and access to resources.

Importantly, capabilities theory is a community-based, context-specific approach to environmental justice that centers on measures for development inconsistent and incompatible with settler-colonial systems, such as political, economic, social, and cultural freedom. Some scholars avoid generating a predetermined list of capabilities, as grassroots approaches can be more effective in pursuits of environmental justice. Others, however, define capabilities as factors including bodily health, self-determination, life, and bodily integrity (Schlosberg and Caruthers 2010, 16). Each approach is successful in creating a broad framework for community-specific action within the Indigenous environmental justice space. In this conception of environmental justice, the negative public health and environmental impacts of extractivism function as boundaries to human flourishing and well-being.

Placing the interests of oil, gas, and mining companies ahead of the health and safety of Indigenous tribes continues the practice of physical genocide committed against Indigenous

peoples. This process mirrors the historical exploitation of and violence perpetrated against Indigenous communities through settler colonialism. As a result of the targeting of culturally important lands and the disproportionate burden of the impacts of uranium mining placed on the Diné Nation, the reduction of Bears Ears National Monument is an environmental justice issue and an example of environmental racism. By prioritizing the capitalist interests of private companies over the lives of Indigenous people, the reduction of Bears Ears National Monument and similar policy decisions continue to contribute to the physical and cultural erasure of Native American populations (Robyn 2020, 59). This, in turn, perpetuates forms of modern colonialism as threats to the health of a population are a form of violence used to continue land and resource exploitation.

Chapter 5: 'You're On Stolen Land': LandBack, Capacity Building, and Decolonization

Future policy decisions regarding land rights and extractivism on public lands should center around LandBack initiatives in alignment with the LandBack campaign; the implementation of co-management strategies in public lands; capacity building through increased inclusion of Indigenous nations in policy creation and the affirmation of political and economic sovereignty and representation; the application of the concept of ecosystem services to the creation of land management strategies; and the decolonization of settler-colonial systems. These tools should be operationalized together to work towards achieving decolonization and forms of restorative justice, which addresses harm done to individuals and communities, and transformative justice, which addresses systemic harm (Fisk et al. 2021, 519). While new policy efforts to increase sovereignty and representation of Indigenous people, communities, and nations are not able to undo the long history of genocide, violence, and erasure perpetrated

against Native Americans in the United States, they present opportunities for action-oriented justice and the pursuit of decolonization.

LandBack. One movement at the center of decolonization is the LandBack movement, a decentralized movement and political framework focused on returning sacred lands, upholding the sovereignty of Native American nations, and dismantling white supremacy (LandBack 2021). According to authors Pieratos, Manning, and Tilsen, LandBack is “a movement that addresses the root pain of colonization – the theft of Indigenous lands, alienation of lands for resource extraction, the violence and genocide committed against Indigenous peoples for statehood and capitalism, and the hundreds of years of devastating aftereffects” (Pieratos et al. 2021, 49). The movement has existed for at least ten years without a centralized organization backing it. This decentralization is essential to the continuity of the LandBack movement, as work to ensure the sovereignty of Indigenous nations and ethical stewardship of natural systems must be generational and not tied to the existence of an individual nonprofit or similar organization (Pieratos et al. 2021, 50-2).

The ideology of LandBack centers on the idea that the loss of land is the root of all symptoms of Indigenous oppression, including high rates of diabetes, suicide, and poverty. As a framework for environmental justice, it relies on four core tenets, including dismantle, defund, return, and consent. Relying on these core tenets, the LandBack movement functions as a tool to dismantle white supremacy and settler colonialism (Pieratos et al. 2021, 51-3). The idea of LandBack is important in decolonization as it addresses histories of settler colonialism, which relied on stolen lands, extractive economies, and genocide and displacement for the success of Western American society (Pieratos et al. 2021, 58). As discussed throughout this thesis, these processes – namely extractivism and the continued theft of land for the benefit of industry and

economic growth – are a key way in which settler colonialism has manifested throughout the 20th and 21st centuries. LandBack also functions as an affirmation of Indigenous sovereignty, as the theft of land limits the capacity of Indigenous peoples to carry out duties and responsibilities outlined in cultural and religious teachings, thus perpetuating settler-colonial and genocidal systems (Dunbar-Ortiz 2014, 211). By subverting harmful means of settler colonialism, LandBack can effectively address the continued processes of settler colonialism and genocide that contribute to the denial of sovereignty and erasure of Indigenous peoples in the United States.

Co-Management Strategies An integral part of these initiatives should be abolishing colonial structures in public lands policy and management. LandBack is particularly relevant in discussions of public lands policy, as public lands such as National Parks, National Monuments, and BLM land present opportunities for the returning of land control to Indigenous nations. Current management of public lands perpetuates unequal power dynamics as Indigenous individuals and communities are consulted as partners – not co-managers – if they are at all involved. For example, the Bears Ears Inter-Tribal Coalition was granted an advisory role rather than a co-management position in the management of Bears Ears National Monument. One key way to pursue decolonization through more ethical land management is by creating equitable co-management strategies for public lands, in lieu of the current exclusion of Indigenous peoples or existing management partnerships without equal distribution of power (Fisk et al. 2021, 519, 524).

A framework for the co-management of public lands has been created by a variety of federal policies and treaties regarding land management and the sovereignty of Native nations. One basis for co-management is born out of the trust relationship between the federal

government and sovereign Native nations. Because federally recognized tribes are considered to be domestic dependent nations, “the federal government has a duty to prevent harm to [their] property” (Nie 2008, 11). This idea has been foundational in spurring cooperation and collaboration between the federal government and sovereign Native nations regarding land management policy. For example, the Joint Secretarial Order on American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act operationalized the federal trust responsibility of the U.S. government to ensure that tribes “do not bear a disproportionate burden for the conservation of” species listed under the Endangered Species Act (Nie 2008, 11). However, the idea of dependency created in this framework continues to undermine the sovereignty of Native nations, particularly as it relates to the capacity to manage lands.

In fact, Native nations have unsurprisingly exhibited a greater capacity to successfully manage land areas in terms of efficiency, productivity, and profitability. This fact has become the basis for some arguments for Indigenous co-management of public lands. In comparing the productivity of timberlands controlled by tribes with those controlled by federal agencies, forestry management by tribes has resulted in decreased costs, increased worker productivity, and increased revenue (Washburn 2022, 287). It is, however, important to note that these measures of success are often drawn from settler-colonial systems, namely capitalism. While it may be effective in current policy spaces, an argument based on settler-colonial ideals undermines the very idea of LandBack as a tool for decolonization.

Another framework for co-management can be seen in the provision of treaty-based fishing rights following various judicial decisions responding to conflict between tribes and states in the Northwest. In *Sohappy v. Smith*, Oregon’s U.S. District Court encouraged a

cooperative approach to managing fisheries in the region, while simultaneously affirming the sovereignty of tribes in the region. Co-management can also be granted by Congressional authorization and executive action, however, the latter has the potential to be limited by the subdelegation doctrine, which inhibits executive agencies from delegating authority previously granted to them by Congress. However, authors Mills and Nie argue that the subdelegation doctrine does not apply in cases of co-management, as co-management does not allow for tribes to make final decisions unilaterally (Mills and Nie 2020, 56-61).

Instead of simply allowing for consultation, co-management strategies should prioritize the implementation and institutionalization of Indigenous knowledge, particularly traditional ecological knowledge and Indigenous land philosophies (Fisk et al. 2021, 519, 525). Efforts to address broader cases of environmental degradation, such as global climate change, are futile without consultation of and collaboration with Indigenous communities and individuals. The idea of a relationship with land based on reciprocity, which underscores much of the religious, cultural, and historical value ascribed to the landscapes that make up public lands by many Indigenous peoples and nations, should be applied across all land management strategies and frameworks (Washburn 2020, 284, 289).

The idea of reciprocity is integrated into many Indigenous cultures, such as through the origin story of Skywoman Falling. When discussing Skywoman's relationship with the land, Indigenous scholar Kimmerer states, "It was through her actions of reciprocity, the give and take with the land, that the original immigrant became indigenous" (Kimmerer 2013, 9). As an origin story, Skywoman establishes the importance of a communal relationship with the land for the survival and prosperity of the human species. Comparatively, the typically Western, Christian origin story of Adam and Eve creates a divide between humans and nature. One establishes a

symbiotic relationship with ecological systems of which humans are a part, while the other enforces the idea that the natural world should be conquered. Instead of emphasizing domination, reciprocity creates space for a holistic application of ecosystem services in the creation of land management plans, which is discussed in further detail below.

The co-management of public lands also allows for the potential for harm reduction in regard to the management of sacred sites on public lands (Washburn 2022, 283). A failure to respect the cultural rights of Indigenous peoples is currently entrenched in approaches to managing public lands. In some cases, in order to access cultural lands to conduct cultural activities, Indigenous peoples must provide sacred information to land management officials (Fisk et al. 2021, 519). Similarly, the provision of protection of sacred lands requires the disclosure of locations of sacred places to federal open records, which creates a potential for damage through increased visitation and usage by non-Indigenous people (Washburn 2022, 284). This, in turn, violates international guidelines that ensure data sovereignty, including the United Nations Declaration on the Rights of Indigenous Peoples (Fisk et al. 2021, 519).

The implementation of a co-management framework on Bears Ears National Monument and on similar land areas also has the potential to effectively address threats to public health and environmental justice issues. The current models of land management rely on the settler-colonial, Western prioritization of the profits of extractive industries, such as uranium mining companies, over the public health of affected local populations, who are often Indigenous. These frameworks fail to uphold environmental justice and instead perpetuate Chavis' conception of environmental racism, which puts forth that environmental racism can be in part understood as the siting of toxic waste and industry in and near communities of color (Schlosberg and Carruthers 2010, 13). Incorporating Indigenous knowledge, expertise, and perspectives into the management of public

lands has the capacity to limit or eliminate these negative public health effects through the acknowledgment of historical abuses of the health of Indigenous populations, the prioritization of different theories of land management that do not place the interest of private companies and extractive industries over the health of environmental systems and human well-being, and the protection of land areas and resources used by Indigenous populations.

Importantly, there is a demonstrated need for a definition of the term co-management as it applies to land management policy. This is reflected in discrepancies between the Bears Ears Tribal Coalition's proposal for Bears Ears National Monument and Obama's Bears Ears Proclamation. The Coalition's proposal presented a system of management in which the relevant federal agencies and tribes were equal and decision-making was joint. Alternatively, the Presidential Proclamation necessitates "meaningful engagement" and the creation of an advisory committee composed of members of the Bears Ears Inter-Tribal Coalition. This change and its results highlight the capacity for "political [appropriation] and [purposeful misuse]" of the term co-management in the absence of a formal definition and framework (Mills and Nie 2020, 64).

A framework for the application of the term co-management exists in the principles outlined by environmental law scholar Edmund Goodman with the purpose of "[clarifying] a process of shared management and decision-making authority that fully incorporates the input and expertise of both parties into a mutual and participatory framework" (Mills and Nie 2020, 66). Goodman's principles include the recognition of tribes as sovereign governments; incorporation of U.S. trust responsibility; creation of legitimation structures for tribal involvement; integration of tribes early in decision-making processes; incorporation of tribal expertise; and implementation of dispute resolution mechanisms (Mills and Nie 2020, 67). By emphasizing the importance of tribal sovereignty and expertise and the need for legitimation

structures and conflict resolution mechanisms, Goodman's definition comprehensively addresses problems associated both with the lack of co-management and in current conceptions of co-management.

While co-management strategies are currently more politically viable, they should serve as a precursor to actionable methods of restorative and transformative justice. The aim of co-management strategies should be capacity building and political representation, with the ultimate goal of transferring land titles and management responsibilities to Native American nations with ancestral claims to specific land areas (Fisk et al. 2021, 524-5). Current public lands management strategies continue to limit Native use of and interaction with ancestral lands. The return of ancestral lands would remove these limitations, affirm Native sovereignty, and provide reparations to Indigenous communities. For example, the return of all 85 million acres of land managed by the NPS would act as a form of reparations for the 90 million acres of land stolen from Indigenous peoples under the General Allotment Act, an early framework for the removal of Indigenous peoples and settler-colonial control of land (Treuer 2021). This actualization of LandBack is one step in the process of decolonization and dismantling of white supremacy in U.S. land management, culture, politics, and economics.

Indigenous Representation. In order to effectively address the human rights abuses that result from extractivism on public lands, such as those associated with uranium mining on Bears Ears National Monument, Indigenous voices must be prioritized in government and policy creation. This is essential as the U.S. government has failed to honor the various treaties made with Indigenous nations surrounding the management and use of public lands (Doshi 2021), as seen in the mismanagement of land areas for the benefit of extractive industries. Furthermore, Indigenous communities have clearly exhibited a greater capacity to effectively and ethically

manage land and the ecosystem services provided by public lands. This is particularly evident in the fact that eighty percent of the world's biodiversity is in lands managed by Indigenous communities. In fact, studies on a global scale have found that lands managed by Indigenous people, including national public lands, have higher biodiversity than other areas (Fisk et al. 2021, 524; Doshi 2021). This fact is not only relevant in the discussion of co-management strategies, but in the prioritization of Indigenous voices and knowledge in decision-making processes determining what land areas are designated as protected.

While previously discussed co-management strategies allow for Indigenous representation in public lands policy, representation within all branches of the federal government should also increase. Throughout history, the percentage of Indigenous peoples in Congress has been below the percentage of Indigenous peoples in the overall U.S. population. Following the 2020 election, the demographic makeup of Congress included five Native Americans and one Native Hawaiian who make up one percent of the House of Representatives. Indigenous peoples make up one percent of the population, giving them accurate demographic representation in the House (Schaeffer 2021). However, New Mexico Representative Deb Haaland resigned her House seat in early 2020, as Biden appointed her Secretary of the Interior.

Another recent example of the success of increasing Indigenous representation in U.S. politics and governance is Biden's appointment of Representative Deb Haaland as the first Indigenous Secretary of the Department of the Interior. As Secretary of the Interior, Haaland has prioritized an idea called 30x30, which focuses on protecting thirty percent of land and water in the United States by 2030. Integral to this is an emphasis on Indigenous-led conservation, the use of traditional ecological knowledge in land management strategies, and respect for tribal sovereignty (Doshi 2021). This example of Indigenous representation at the federal level is

exemplary of how diversifying viewpoints can lead to decolonization, in this case by incorporating the key ideas of LandBack into federal policy creation.

The designation of Bears Ears National Monument also serves as an example of Indigenous-led conservation and public lands management in the United States. The Bears Ears Inter-Tribal Coalition, which consists of the Hopi Tribe, Diné Nation, Ute Mountain Ute Tribe, Ute Indian Tribe, and Pueblo of Zuni, serves as an example of an advisory group with the goal of incorporating traditional ecological knowledge into management strategies (Doshi 2021). The application of Indigenous land philosophies and conservation techniques is particularly relevant to the case of Bears Ears National Monument, as it has a high score for levels of biodiversity and is home to eighteen species under the Endangered Species Act (Rowland-Shea 2017). The subversion of tribal sovereignty and marginalization of Indigenous political participation by Trump's decision to repeal the monument continues to perpetuate systems of settler colonialism on public lands, thus demonstrating a need for LandBack. However, Haaland's role in the redesignation of Bears Ears reaffirms Indigenous involvement in the establishment of the monument.

Ecosystem Services. As discussed in Chapter 1, current land management policies and frameworks fail to adopt an ecosystem services approach as they often focus primarily on the provisioning services provided by public lands. Taking a more holistic approach has the potential to protect natural systems and enhance all ecosystem services, thus benefiting human well-being. This is especially important for Indigenous communities, as land degradation and the associated impacts often have the most detrimental impacts on them. Applying an ecosystem services framework to public lands policy has the potential to limit environmental degradation on public lands by balancing various factors, instead of focusing on single outputs as current models do.

Current models of public lands policy clearly prioritize the two primary ecosystem services associated with direct economic benefit: cultural and provisioning. Because the outputs of these services that contribute to human social, political, and economic systems can be identified in both on- and off-site delivery, they have come to frame approaches to managing public lands. This can be seen in the prioritization of extractive industries over other services that contribute to human well-being like climate mitigation or water purification, as previously discussed. An ecosystem services model can, however, be useful in spurring a shift in thinking about the benefits of regulating and supporting services (Ruhl 2010, 281). There is a clear need for educational services to communicate these needs to the public. In the case of public lands, this could be done through existing forms of environmental education, such as resources provided at National Parks.

In employing ecosystem services as a model for public lands management, it is necessary to use a cost-benefit analysis to determine which service to prioritize in various contexts. When services present competition with each other, management strategies should have existing mechanisms to determine best practices. One gap in the potential application of an ecosystem services model results from a difficulty in measuring the outcomes provided by regulating and supporting services. As a result, there is a demand for developments in modeling in each respective habitat to determine the provisions from each ecosystem service. The FS has developed an approach that “quantifies annual provision of ecosystem services, develops a spatial catalog of the marginal values of changes in those flows, and accounts for the total value of ecosystem services lost or gained as a result of changes in forest ecosystems.” (Ruhl 2020, 694). In doing so, they have become sector leaders in the application of ecosystem services as a tool for resource and land management.

Decolonizing Public Health. Current public health systems that rely on expert knowledge, paternalistic dynamics, and settler-colonial structures have allowed for and contributed to the negative individual and community health outcomes for Native populations discussed in Chapter 4. The current Eurocentric national and global public health systems largely ignore the significance or validity of specific cultural knowledge, thus creating the capacity for the undermining of individual and community self-determination in favor of Western conceptions of health promotion (Chandanabhumma and Narasimhan 2019, 832). Within this perspective, white supremacy can be understood as a public health issue that underscores most other public health issues (Tuck and Yang 2012, 21). The convergence of settler colonialism and white supremacy in the field of public health creates a need for the decolonization of knowledge systems through efforts at restorative and transformative justice.

To address the presence of settler colonialism and white supremacy in health systems, Chandanabhumma and Narasimhan put forth “the Applied Decolonial Framework for Health Promotion” based on existing knowledge, strategies, and principles of decolonization for application in the public health sector. Their model presents three domains – reflection, planning, and action – that overlap and can be operationalized together to engage in processes of decolonization. The reflection domain incorporates the assessment of long-term effects of colonization, a critique of current paradigms, and a shift from Western to Indigenous knowledge systems and ideas. The planning domain emphasizes engaging in a mutual dialogue with those affected by colonization and honoring Indigenous wisdom with accountability. The latter element is essential to avoid appropriation and exploitation of Indigenous culture and wisdom and to protect Indigenous knowledge as delineated by the United Nations Declaration on the Rights of Indigenous Peoples. Finally, the action domain involves mobilizing communities and building

alliances, engaging in social justice practices, and placing self-determination at the center of activities. While each domain and associated element is distinct and non-sequential, they should be applied in a way that addresses the specific needs, resources, and communities in each context or project (Chandanabhumma and Narasimhan 2019, 833-7).

Implementing Chandanabhumma's and Narasimhan's applied framework or similar frameworks as a method of decolonizing public health has the capacity to address the legacy of settler colonialism in public health structures and health promotion strategies. Decolonization efforts could successfully address the socio-economic, social, and environmental determinants resulting from settler colonialism that contribute to negative health outcomes in Indigenous communities, such as poverty, exposure to harmful materials, and barriers to healthcare. In the context of Bears Ears National Monument, decolonization efforts should involve addressing the negative impacts of uranium mining on the health of Diné people, water security, and culturally and spiritually important activities such as harvesting plants for sustenance and ceremonial or medicinal purposes. Additionally, it should incorporate LandBack efforts and the transfer of management roles to members of the Bears Ears Inter-Tribal Coalition to reaffirm self-determination in environmental health and human well-being.

While frameworks for decolonization such as the one presented by Chandanabhumma and Narasimhan can be effective in addressing public health crises facing Indigenous communities, efforts at decolonizing systems of thinking and knowledge in healthcare should not be used as a tool to replace more action-oriented methods of decolonization, such as LandBack and the creation of co-management strategies on public lands. The use of decolonization as a theoretical framework, rather than a practice of restorative and transformative justice, creates space for "moves to innocence" on the part of settlers. This, in turn, undermines attempts at

decolonization, primarily made by Indigenous peoples and communities. Tuck and Yang argue, “When metaphor invades decolonization, it kills the very possibility of decolonization; it recenters whiteness, it resettles theory, it extends innocence to the settler, it entertains a settler future” (Tuck and Yang 2012, 3). In framing decolonization as a metaphor for the decentering of white, Western epistemologies, some social justice frameworks ignore work being done by Indigenous peoples in struggles for sovereignty, promotion of Indigenous epistemologies, and other forms of activism. As a result, systems of settler colonialism are upheld (Tuck and Yang 2012, 2-3). Chandanabhumma and Narasimhan seek to address this failure in theoretical decolonization through their emphasis on praxis within the action domain of their applied framework (Chandanabhumma and Narasimhan 2019, 836).

Best Practice. Of the policy recommendations discussed in this chapter, those that promote the return of ancestral lands to Indigenous nations and peoples through decolonization efforts, particularly those that fall under the LandBack movement, are the most important. As a concept, LandBack addresses the root causes of Indigenous oppression under settler colonialism such as the theft of land through violent systems of settler colonialism and the undermining of sovereignty of Native nations. In practice, LandBack addresses these issues through the abolition of settler-colonial structures in land management policies. This can manifest through the establishment of a co-management relationship between federal agencies and Native nations for public lands; the incorporation of traditional ecological knowledge into proposed management plans; and the eventual transfer of land ownership, management responsibilities, and titles to Native nations. In doing so, LandBack presents actionable opportunities for restorative and transformative justice in an attempt to address the history of violence, genocide, and erasure perpetrated against Indigenous peoples throughout the history of the United States. The most

important step, however, is the transfer of land to sole Indigenous management as a form of decolonization and reparations for the violence perpetrated against Indigenous peoples through settler colonialism.

Efforts towards the pursuit of LandBack should be supported by an increase in Indigenous representation in local, state, and federal government and policy creation spaces and the incorporation of an ecosystem services model into public lands management strategies. In conjunction with creating co-management or sole management opportunities for tribes, electing and appointing Indigenous peoples to government positions has the opportunity to subvert the settler-colonial structures in areas of the U.S. government, such as the BLM, FS, or other land management agencies. This is also relevant in Congress, as increasing levels of demographic representation in all Congressional decision-making would act as a step towards decolonization. Furthermore, the application of an ecosystem services model in the creation and implementation of land management plans creates the opportunity for the incorporation of models based in traditional ecological knowledge and Indigenous land epistemologies and ontologies. These policy recommendations have the potential to benefit both human and natural systems, particularly in how they address the legacy of settler colonialism and its impacts on land management and Indigenous rights.

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