



Written by [Bob Adelman](#) on January 17, 2017

## Obama's Rush to Leave a Legacy Leaves a Mess Instead

In Greek mythology Augeas is best known for his stables, which housed 3,000 head of cattle. The stables hadn't been cleaned for 30 years, and Heracles' job — to keep working until he had cleaned the stables entirely — was deemed impossible, as the cattle were immortal.

Happily President-elect Donald Trump's challenge to undo egregious Obama administration actions isn't as overwhelming as Heracles'. Consider Obama's parting gift of withdrawing millions of acres of the Atlantic and Arctic Oceans from energy development on December 20. Or his proclamation in the last week of December turning 1.35 million acres in Utah and 300,000 acres in Nevada into new national monuments.



Since that time Obama has orchestrated an anti-Israel resolution by the United Nations Security Council, which is sure to gum up the works for Trump's intentions to reestablish friendly relations with that country. Obama also shut the door on Cuban refugees seeking asylum in the United States, denying to those fleeing the island's communist dictatorship the protection — instituted by President Bill Clinton — of legal residency if they make it successfully to U.S. soil.

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With just days left in his disappearing act, Obama is rushing to name loyalists in his administration, soon to be out of work, to cushy federal jobs. Just since the first of the year, Obama has named 72 of his people to federal positions, with another 17 nominated for positions that require Senate confirmation. Among them is Sarah Hurwitz, Michelle's speechwriter, and other White House "officials": Avril Haines, Raffi Freedman-Gurspan, Christy Goldfuss, DJ Patil, Amy Pope, Dan Utech, and Cristin Dorgelo.

Obama has also been working at drawing up a list of people to pardon or grant commutations, which, according to Trump, are sure to include some real doozies — "bad dudes" as he expressed it — and warning Americans once those are released to "sleep tight, folks!"

But two constitutional scholars, Todd Gaziano, the executive director of the Pacific Legal Foundation, and John Yoo, a scholar at the American Enterprise Institute, provided some possible legal shovels to help Trump clean up Obama's messes. Reassuringly, they wrote in the *Wall Street Journal* on December 30 that "under Article I of the Constitution, only Congress can enact domestic statutes with any degree of permanence. And, because of the Constitution's separation of powers, no policy [enacted by Obama] will survive for long without securing and retaining a [congressional] consensus beyond a simple majority."

The scholars suggested that Trump halt all executive agency rulemaking on Day One of his



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administration and order those agencies to stop enforcing any rules enacted in the last two years of the Obama administration.

As far as putting oceans off-limits to energy exploration and naming national monuments at the last minute, Trump can rely on the Outer Continental Shelf Lands Act as well as the Antiquities Act of 1906 for assistance. The authors noted that their language doesn't preclude new presidents from repealing previous presidents' proclamations. Wrote the scholars, "In other words, none of Mr. Obama's monument designations or drilling bans is permanent." They added:

When Congress grants discretionary authority to issue regulations [by the executive branch agencies], the courts have correctly held that it also confers the authority to substantially amend or repeal them.

Obama's rush to remain relevant, memorable, and permanent is likely to backfire, according to the two authors:

The hubris that has marked this administration knows no end. Declaring that [his] policies will last forever won't make it so.

But it should stiffen the spine of those who wish to see those policies reversed sooner rather than later.

This just in: Obama just issued 209 commutations and 64 pardons as this article was being written.

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