

MEMORANDUM

TO: BLM Nevada State Director

FROM: Principal Deputy Director, Bureau of Land Management

SUBJECT: BLM Interim Management of the Avi Kwa Ame National Monument

On March 21, 2023, President Biden issued Proclamation 10533¹ (“the Proclamation”), designating the Avi Kwa Ame National Monument (“the Monument”). The Proclamation identified objects of historic and scientific interest and reserved more than 506,000 acres of Federal land in Clark County as the smallest area compatible to protect the objects identified.²

The Proclamation explains how the Avi Kwa Ame area is a historic and sacred landscape of diverse and ancient connections. Located at the confluence of multiple ecosystems, the area’s human and natural history has been shaped by diverse ecological and geological forces, amid a climate that has tested its inhabitants for millennia. For the Tribal Nations that trace their creation to Avi Kwa Ame, the power and significance of this place connects Spirit Mountain to the geographic and geologic features, species, landmarks, springs, cultural and historic sites, and other resources across the landscape. As a result, not only are these historic landmarks, historic and prehistoric structures, and objects of historic or scientific interest protected under the Antiquities Act, but the entirety of Avi Kwa Ame as a landscape is an object of historic and scientific interest that requires protection as well. The Proclamation also describes the unique geology of the area, particularly the mountain ranges within the Monument boundary that support significant biological diversity and ecology, as well as the importance of the exceptional soundscape and dark night skies that exist across the landscape. Further, the Proclamation tells the story of Euro-American settlers’ and traders’ use and occupation of the area including the historic Walking Box Ranch site, which is listed on the National Register of Historic Places.

The Proclamation also specifically directs the Secretary of the Interior to prepare and maintain a management plan for purposes of protecting and restoring the objects identified in the Proclamation. In preparing the management plan, the Proclamation directs the Secretary to take into account, to the maximum extent practicable, maintaining the undeveloped character of the lands within the Monument, minimizing impacts from surface-disturbing activities, providing appropriate access for hunting and wildlife management, and emphasizing the retention of natural quiet, dark night skies, and visual resources.

¹ 88 Fed. Reg. 17987 (March 27, 2023).

² The Monument includes approximately 442,912 acres managed by the Bureau of Land Management (BLM), approximately 58,309 acres managed by the National Park Service (NPS), and approximately 5,592 acres managed by the Bureau of Reclamation (BOR).

This interim management guidance will help ensure that, until the new plan is completed, the BLM-NV will manage the Monument in a manner consistent with the Proclamation.³ The purpose of this memorandum is to: (a) provide interim guidance to BLM-NV for managing the Monument while the agency jointly develops a management plan for the Monument with the NPS; and (b) direct BLM Nevada (BLM-NV) to begin working with the NPS to prepare a management plan for the Monument, with a goal of finalizing that plan no later than October 2031. As implementation of the Proclamation proceeds, additional resource-specific guidance will be provided as necessary.

The direction in this memorandum only applies to public lands where BLM has management authority and does not apply to National Park Service (NPS) lands in the Monument, which are managed as part of the Lake Mead National Recreation Area (NRA). Nevertheless, prior to initiating the planning process, BLM-NV should work with NPS staff at the Lake Mead NRA to finalize and make available to the public an updated map and current spatial data for the Monument.

I. Interim Management Direction

The Proclamation identified objects of historic and scientific interest within the Monument boundaries and provided specific direction for management of the Monument, including the direction to prepare a joint management plan for the Monument with NPS. While BLM-NV is in the process of jointly preparing that management plan with the NPS, the BLM State and Field Office staff will ensure that management of the Monument conserves, protects, and restores the objects of historic and scientific interest within the Monument boundary for the benefit of current and future generations, consistent with the Proclamation, the Omnibus Public Land Management Act of 2009 (16 U.S.C. 7202), and the Antiquities Act (54 U.S.C. 320301). Additionally, the BLM's policies for interim management of lands reserved as part of a national monument are generally outlined in Section 1.6 of BLM Manual 6220.

This interim management direction describes how the Proclamation fits into the existing legal framework for managing discretionary activities within national monuments by restating and summarizing how the Proclamation, relevant statutes, regulations, and the applicable resource management plan govern the Monument prior to completion of the management plan for the Monument. This interim management direction does not alter applicable laws, the legal framework, or create new legal consequences for Federal lands within the monument boundary. While certain legal obligations are discussed in this interim management direction, those obligations stem from applicable statutes, regulations, and the Proclamation.

A. Mining and Mineral Leasing Activity

³ This interim management direction applies only to BLM-managed lands and interests in lands located within the exterior boundaries of the monument. However, the Monument boundary encompasses approximately 2,697 acres owned by private landowners. If the BLM were to acquire any new lands and interests in lands within the boundaries of the monument reservation prior to completion of a monument management plan (including lands currently managed by the BOR), this interim management guidance would apply to those lands as well.

The Proclamation provides that, subject to valid existing rights,

All Federal lands and interests in lands within the boundaries of the monument are hereby appropriated and withdrawn from all forms of entry, location, selection, sale, or other disposition under the public land laws, from location, entry, and patent under the mining laws, and from disposition under all laws relating to mineral and geothermal leasing, other than by exchange that furthers the protective purposes of the monument.

Therefore, no new mining claims may be located, and no new mineral leases may be issued, on lands within the Monument. Before approving a plan of operations⁴ within the Monument on claims located before the lands were withdrawn, BLM-NV must, in accordance with 43 CFR 3809.100(a), prepare a mineral examination report to determine whether the mining claim was valid *before* the withdrawal,⁵ and to determine whether the mining claim remains valid. The operator will be responsible for the costs of the mineral examination, as required by 43 CFR 3800.5(b). During the period that BLM-NV is completing the examination, limited activity may be allowed on the claim, but only to take samples to confirm or corroborate mineral exposures that are physically disclosed and existing on the mining claim prior to the withdrawal, or to complete minimum necessary annual assessment work. If BLM-NV concludes that a mining claim is invalid, BLM-NV should not approve operations on the claim, but instead promptly initiate contest proceedings.

If mining or mineral leasing activities that BLM-NV determines are valid existing rights are allowed to proceed, the agency must—to the greatest extent possible, and in accordance with applicable law—manage the activity in a manner that protects Monument objects, in addition to taking any action necessary to prevent unnecessary or undue degradation of these public lands.

B. Discretionary Activities

1. In General

Section 302 of the Federal Land Policy and Management Act (FLPMA) states that public lands should be managed under the principles of multiple use and sustained yield “except that where a tract of such public land has been dedicated to specific uses according to any other provisions of law it shall be managed in accordance with such law.”⁶ The Proclamation dedicates the lands within the Monument to a specific use under the Antiquities Act—namely, the protection of objects of historic and scientific significance identified in the Proclamation. Therefore, BLM-NV must manage the lands reserved within the Monument boundary in a manner that protects the objects for which the Monument has been designated. In other words, within the Monument, typical multiple-use management is superseded by the direction in the Proclamation to protect

⁴ There are no “notice-level” operations in national monuments, meaning that operators must submit a plan of operations for any surface disturbance greater than casual use. *See* 43 CFR 3809.11(c)(7).

⁵ The effective date of the withdrawal is the day the Monument was established, March 21, 2023.

⁶ 43 U.S.C. 1732(a).

Monument objects. On BLM-administered lands within the Monument, authorizations and BLM-initiated actions are allowed only to the extent they are consistent with the protection of the objects identified in the Proclamation.

For any discretionary project or activity proposed within the boundaries of the Monument or with the potential to affect objects for which the Monument has been designated, BLM-NV must undertake a two-part analysis before issuing an authorization. First, the authorized officer must verify that the proposal conforms to the approved resource management plan. Second, the authorized officer must determine that the proposal is consistent with the protection of Monument objects. Because the 1998 Las Vegas Resource Management Plan and 2022 Piute Eldorado Area of Critical Environmental Concern Management Plan (jointly “LV RMP”) were developed before the issuance of the Proclamation, a finding that a proposed project or activity conforms to the LV RMP does not necessarily ensure that the proposal is consistent with the protection of objects for which the Monument has been designated. The authorized officer should ensure that the decision document and associated record provides adequate documentation of both the conformity to the LV RMP and compliance with the Proclamation. Documentation of this analysis is required for all proposals that were not approved prior to March 21, 2023.

In summary, prior to the adoption of a new management plan, BLM-NV may allow discretionary activities only if it determines that: (1) the decision conforms to the LV RMP; and (2) the decision is consistent with the protection of Monument objects. BLM-NV should ensure that the NEPA analysis for the decision adequately addresses potential impacts to Monument objects and document the basis for its determinations and, if not, undertake additional environmental analysis as necessary. BLM-NV’s determination for each of the considerations detailed above should be explained in the decision document for the proposed action.

Note that this analysis does not usually identify a conflict between the management direction in the resource management plan and the requirement in the Proclamation to protect objects, since resource management plans—while they may impose conditions or make certain uses off limits—do not typically *mandate* that particular uses occur. For example, while a resource management plan may *allow* BLM-NV to grant FLPMA Title V rights-of-way in a particular area, it does not mandate that the agency do so. Thus, if BLM-NV denies, or places conditions on, a proposed right-of-way grant to protect objects, that decision would likely still conform to the governing resource management plan. That said, in the rare event that there is a conflict between the Proclamation and the governing resource management plan, the Proclamation controls. If there appears to be a conflict between the requirements of the Proclamation and those of the approved resource management plan, you should consult with the Office of the Solicitor.

Within eighteen months of issuance of this guidance, the BLM-NV should prepare a report for the director that reviews existing discretionary uses and activities within the Monument to determine whether their impacts are consistent with the protection of the Monument objects. Subject to valid existing rights and consistent with applicable law and regulations, BLM-NV

should consider taking appropriate action with regard to any such activities and uses that it has determined to be incompatible with the protection of objects for which the Monument has been designated, pending the completion of a new management plan to implement the Proclamation.⁷ To the extent that BLM-NV has taken actions to address potential conflicts, BLM-NV should summarize those actions in the same report submitted to the Director by the above date and does not need to complete a new review.

Finally, effective on-the-ground management of Monument objects requires monitoring and inspection to ensure that they are being adequately protected on an ongoing basis. BLM-NV should review its existing monitoring plans and, where necessary and appropriate, update them to provide for proactive monitoring within the Monument boundary to ensure protection of objects. In particular, BLM-NV should ensure that it is adequately monitoring cultural sites and riparian areas within the Monument, including, as appropriate, working with interested Tribal Nations to develop a culturally sensitive monitoring plan. Further, BLM-NV should review existing monitoring data to determine whether any areas within the Monument should be temporarily closed or whether other uses of the area should be temporarily restricted to ensure protection of Monument objects.

Beyond resource monitoring, the plans should include compliance checks for existing facilities within the Monument. The agency should also ensure that any activity or use that it approves includes adequate monitoring to ensure protection of objects. If BLM-NV's monitoring within the Monument identifies impacts to Monument objects or other resources, BLM-NV should take appropriate action (up to, and including, issuing temporary area closures or specific use restrictions consistent with 43 C.F.R. 8364.1), in consultation with the Solicitor's Office, to address the impacts. In the event that BLM-NV determines that it is necessary to issue a temporary area closure or use restriction in accordance with section 8364.1, the agency should consider whether it is appropriate to rely on an applicable categorical exclusion to comply with NEPA.

More specific guidance regarding particular uses and activities follows. Note, however, that this guidance is not intended to be comprehensive; additional, detailed direction may be provided as particular issues are identified, including through the decision making and public involvement processes.

2. Recreation Management

The Monument area is replete with diverse opportunities for recreation, including hiking, camping, birdwatching, motorized touring, stargazing, hunting, and pursuing amateur geology, that support the travel and tourism sector of the local economy. However, outdoor recreational opportunities are not themselves objects of historic and scientific interest designated for protection. For instance, while members of the public are generally allowed to engage in

⁷ The BLM's ability to suspend or take other appropriate action with regard to previously authorized activities and uses could depend on the nature and type of authorization at issue. For third-party authorizations, please consult with the Solicitor's Office prior to issuing a suspension.

rockhounding (i.e., collecting reasonable amounts of nonrenewable resources such as rocks, mineral specimens, and semiprecious gemstones for noncommercial purposes) on BLM-managed public lands,⁸ including within the Monument, this use may be restricted in specific situations, such as to protect monument objects. Therefore, prior to authorizing a proposed recreation use, activity, or facility, BLM-NV must ensure that the proposal is evaluated for resource management plan conformance and consistency with the Proclamation. Note that this requirement applies to special recreation permits that may come up for renewal, notwithstanding whether an event or activity has been permitted in the past.

a. Off-Highway Vehicle Management

The Proclamation provides,

For purposes of protecting and restoring the objects identified above, the Secretary shall prepare a transportation plan that designates the roads and trails on which motorized and non-motorized mechanized vehicle use will be allowed. Except for emergency or authorized administrative purposes, including appropriate wildlife management, motorized vehicle use in the monument shall be permitted only on roads and trails documented as existing as of the date of this proclamation. Any additional roads or trails designated for motorized vehicle use must be designated only for the purposes of public safety needs or protection of the objects identified above. The Secretary shall monitor motorized and non-motorized mechanized vehicle use and designated roads and trails to ensure proper care and management of monument objects.

For purposes of the transportation plan, the Proclamation limits the routes to be considered to those roads “documented as existing” on March 21, 2023. This limitation means that the only roads or trails the BLM may consider are those designated as open or closed in the 1998 Las Vegas Resource Management Plan or the linear disturbances identified as part of the 2022 Piute Eldorado Area of Critical Environmental Concern Management Plan. This limitation is intended to give BLM-LVFO some flexibility in designating routes during a travel management planning process, but also ensures that the plan will adequately protect Monument objects. New roads and trails may be designated only for the purposes of public safety needs or protection of the objects. While BLM-NV is not required to begin transportation planning until after the resource management plan is completed, BLM-NV should ensure that motorized vehicle use is limited to the roads and trails that existed in BLM inventories as of March 21, 2023.

3. Rights-of-Way

The LV RMP identified numerous rights-of-way within the Monument boundary, including communications sites, oil and gas pipelines, transmission lines, roads, telecommunications

⁸ 43 CFR 8365.1-5(b)(2).

facilities, water facilities, National Nuclear Security Administration seismic monitoring equipment, and a Federal highway (US-95). The Proclamation provides:

Nothing in this proclamation shall be construed to preclude the renewal or assignment of, or interfere with the operation, maintenance, replacement, modification, upgrade, or access to, existing flood control, utility, pipeline, and telecommunications facilities; roads or highway corridors; seismic monitoring facilities; or other water infrastructure, including wildlife water developments or water district facilities, within or adjacent to an existing authorization boundary. Existing flood control, utility, pipeline, telecommunications, and seismic monitoring facilities, and other water infrastructure, including wildlife water developments or water district facilities, may be expanded, and new facilities of such kind may be constructed, to the extent consistent with the proper care and management of the objects identified above and subject to the Secretary's authorities and other applicable law.

Pursuant to this language, all holders of rights-of-way authorized before the Proclamation may continue to operate within the corridors authorized by their grants, notwithstanding the Monument designation. For a more limited set of rights-of-way, including flood control, utility, pipeline, telecommunications facilities, seismic monitoring facilities, and water infrastructure, existing infrastructure may be expanded, and new facilities may be constructed, but only to the extent that such authorizations would be consistent with the protection of Monument objects. If BLM-NV receives a proposal for a right-of-way and is unsure how to comply with this provision, please consult with the Solicitor's Office for project-specific guidance.

a. Wildlife Guzzlers

There are several large and small game water catchments (also known as "guzzlers") located throughout the Monument. These guzzlers have historically been maintained by the Nevada Department of Wildlife in conjunction with local partners. Consistent with the language regarding rights-of-way, the Proclamation would allow for the installation of new guzzlers as well as the continued maintenance and repair of new and existing facilities, including the use of helicopters, consistent with the care and management of Monument objects.

4. Vegetation Management and Restoration

Vegetation management is another type of activity that regularly occurs within the Monument that must conform to the applicable resource management plan and be consistent with the protection of Monument objects. While the Proclamation does not specifically limit the types of vegetation treatment that the BLM can use within the Monument, certain treatment methods allowed under the applicable resource management plan may not be consistent with the protection of the objects. Thus, agency staff should review such projects with particular care to ensure such consistency.

Due to the diversity of plant species and ecoregions within the Monument boundary, certain areas are used for native seed collection as part of the National Native Seed Strategy to provide native seed for restoration and reclamation projects in the upper Mojave Desert, including northwestern Arizona, southeastern California, and southern Nevada. While the Proclamation does not expressly prohibit collection of native seeds the BLM would need to ensure that any activity authorized is consistent with the protection of Monument objects.

Restoration of vegetation, including from wildland fire, and reclamation from previous activities, in particular addressing prior mining operations within the Monument boundary, can improve protection of Monument objects. BLM-NV should continue to identify and implement restoration and mining reclamation actions in a manner that is consistent with the Proclamation. BLM-NV should also apply lessons learned from past efforts to any future remediation and reclamation from mining operations within the Monument. In relation to future remediation and reclamation efforts, BLM-NV will ensure that information from affected Tribes, the public, and other stakeholders is considered through appropriate processes.

C. Consultation, Coordination and Consistency

The Proclamation directs the Secretary of the Interior to provide for maximum public involvement in the development of the management plan, in particular, consultation with federally recognized Tribal Nations and coordination with State and local governments. BLM-NV, in coordination with the NPS, will maximize opportunities for consultation and to seek cooperation and consistency while carrying out this interim management direction. To ensure that the planning process has robust public engagement, BLM-NV and NPS should ensure that the following agreements and committees are established prior to beginning scoping for the management plan.

1. Co-Stewardship

The Proclamation identifies a number of Tribal Nations that have historic and spiritual connections to the lands within the Avi Kwa Ame boundary, including, the Mojave, Chemehuevi, Southern Paiute, Cocopah, Halchidhoma, Havasupai, Hopi, Hualapai, Kumeyaay, Maricopa, Pai Pai, Quechan, Yavapai, and Zuni. Leadership at DOI engaged at length with representatives from many of these Tribal Nations prior to the designation of the Monument. As the Proclamation explains:

For the Tribal Nations that trace their creation to Avi Kwa Ame, the power and significance of this place reside not just in the mountain itself, but radiate across the valleys and mountain ranges of the surrounding desert landscape containing the landmarks and spiritually important locations that are linked by oral traditions and beliefs.

In recognition of the importance of Tribal participation in the care and management of the Monument objects and to ensure that management decisions reflect Tribal expertise and Indigenous Knowledge, the Proclamation directs the BLM and NPS to meaningfully engage with the Tribal Nations who have historical and spiritual connections to the Monument lands in the development of the management plan and to inform subsequent management of the Monument. In order to enhance those efforts, the Proclamation further directs the Secretary to enter into a memorandum of understanding with interested federally recognized Tribal nations to set forth terms, pursuant to applicable laws, regulations, and policy, for co-stewardship of the Monument.

Prior to initiating the planning process, BLM-NV, in coordination with NPS should explore entering into one or more memoranda of understanding with interested Tribal Nations for co-stewardship of the Monument with that will set forth parameters for meaningful engagement on the development and implementation of the management plan and future management of the Monument. The agreement should acknowledge that the spiritual landscape encompassed by the Monument is a living entity for the Tribal Nations that have historic and spiritual connections to these lands.

2. Monument Advisory Committee

The Proclamation directs the Secretary to establish the Avi Kwa Ame National Monument Advisory Committee (MAC) to provide the BLM and NPS with information and advice regarding the development of a management plan and, as appropriate, the management of the Monument. Consistent with that direction, on July 30, 2024, the Department of the Interior issued a notice that the MAC has been established and that the BLM is seeking nominations for individuals to be considered as members (89 Fed. Reg. 61132). On December 13, 2024, the Secretary appointed eleven members to the MAC. Now that the MAC has a quorum, BLM-NV will meet with the MAC at least once before June 2025.

3. NPS Agreement

BLM-NV and NPS Lake Mead NRA Superintendent should execute an agreement that identifies the roles and responsibilities of each agency in developing a joint management plan for the Monument and funding requirements for both the planning process and future management of Monument lands.

4. State Wildlife Agreement

The BLM has an existing agreement with the Nevada Department of Wildlife regarding state-wide management of wildlife that has been amended on several occasions—most recently in 2012. The monument proclamation provides:

The Secretary shall seek to continue collaborating with the State on wildlife management and shall expeditiously explore entering into a memorandum of

understanding, or amending an existing memorandum of understanding, with the State to facilitate such collaboration.

While this is not required prior to beginning the management planning process, BLM-NV, in consultation with NPS, should engage the State of Nevada to explore entering into a memorandum of understanding specifically for the Monument, or amending the existing state-wide memorandum of understanding in order to better facilitate collaboration on wildlife management.

5. Agreements with local governments

Prior to designation, BLM leadership heard strong support for the Monument from local governments and the business community. To further the protection of objects within the Monument, the Proclamation directs the Secretary to evaluate opportunities to work with local communities to locate and develop a visitor center or other visitor information facilities to enhance public services and promote management efficiencies. While BLM-NV should prioritize completion of the management plan, in implementing the plan, BLM-NV should work with local governments, particularly in gateway communities to develop agreements that implement this provision and enhance visitor understanding, enjoyment, and safety within the Monument.

D. Other Priorities

In accordance with BLM Manual 6220 section 1.6.D.6, BLM-LVFO should prioritize the development and installation of entrance signs at key access points to Avi Kwa Ame as soon as practicable but no later than 6 months from issuance of this guidance. While some signs may have been installed in the past year, to ensure protection of Monument objects, BLM-NV should install both entrance signs and other informational and educational signs at strategic points within or adjacent to the Monument.

Further, the Proclamation directs the Secretary to transfer administrative jurisdiction of lands managed by the Bureau of Reclamation (BOR) within the boundaries of the Monument to the BLM. Currently, the BOR manages approximately 5,592 acres within the Monument boundary. BLM-NV should complete the appropriate documentation necessary to execute the administrative transfer of these lands prior to beginning the planning process. In the interests of efficiency, the BLM may consider including the 11,779 acres of Federal lands currently managed by the BOR within the boundary of Gold Butte National Monument as part of this process consistent with the direction in Proclamation 9559 (82 Fed. Reg. 1149).

Finally, Section 1454 of the Dingell Act amends Section 705 of the California Desert Protection Act, in part, to require the BLM to “develop and implement a Tribal cultural resources management plan to identify, protect, and conserve cultural resources of Indian Tribes associated with the Xam Kwatchan Trail network extending from Avikwaame (Spirit Mountain, Nevada) to Avikwial (Pilot Knob, California)” (116 P.L. 9, 133 Stat. 580, 2019, codified at 16 USC 410aaa-75). BLM-NV will engage with BLM California and BLM Arizona to develop a strategy that

will ensure compliance with this provision through the planning processes for the Avi Kwa Ame National Monument and any future implementation-level planning processes.

II. Completion of a Monument Management Plan

Consistent with the direction in BLM Manual 6220 and the Proclamation, BLM-NV jointly prepare a management plan with the NPS for all Federal lands within the 506,814-acre boundaries of the Avi Kwa Ame National Monument for the purposes of protecting and restoring the Monument objects. Until BLM-NV approves a new management plan for the Monument, the existing 1998 Las Vegas Resource Management Plan remains in effect, to the extent it is consistent with the protection of Monument objects identified in the Proclamation.

Prior to initiating the planning process, BLM-NV should review the GIS data for the Monument and correct any errors prior to initiating the planning process. During the planning process, the BLM will finalize and make available to the public an updated map and spatial data for the Monument.

In preparing the management plan, BLM-NV and NPS will prioritize consultation with Tribal Nations. The planning process should also include opportunities for consultation with other Federal land management agencies and provide for maximum public involvement, including consultation with State and local governments, community members, and other interested stakeholders.

Before October 1, 2025, the BLM will finalize and submit a preparation plan, which should also include a discussion of how BLM-NV will engage with the NPS to coordinate the joint planning process.

Attachments:

Proclamation 10533