

Inter-Governmental Cooperative Agreement
between
the Tribal Nations whose representatives comprise the Bears Ears Commission, the Hopi Tribe, Navajo Nation, Ute Mountain Ute Tribe, Ute Indian Tribe of the Uintah and Ouray Reservation, and the Pueblo of Zuni
and
the United States Department of the Interior, Bureau of Land Management and the United States Department of Agriculture, Forest Service
for
the Cooperative Management of the Federal Lands and Resources of the
Bears Ears National Monument

BLM Agreement No. ____

Forest Service Agreement No. ____

I. Statement of Joint Objectives

A. Purpose. On October 8, 2021, President Biden issued Proclamation 10285 (“the Proclamation”), which restored the boundaries and conditions of the Bears Ears National Monument (“Bears Ears” or “monument”) established in Proclamation 9558 (December 28, 2016) and retained the approximately 11,200 acres added to the monument by Proclamation 9681 (December 4, 2017). Proclamation 10285 directs the Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) to jointly manage the monument consistent with the Proclamation and to jointly prepare and maintain a management plan for all Federal lands within the boundaries of the 1.36 million-acre Bears Ears National Monument for the purposes of protecting and restoring the monument objects.

The Departments are responsible for managing Federal lands and waters and are thereby charged with the highest responsibility to protect Tribal interests and further the nation-to-nation relationship with Tribal Nations. The Departments recognize and affirm that the special relationship between the United States and Tribal Nations is an integral part of each Department’s responsibilities in managing Federal lands.

In recognition of the importance of Tribal knowledge about the lands and objects within the boundaries defined by Proclamation 10285, and to ensure that management decisions affecting the monument reflect the expertise and traditional and historical knowledge of interested Tribal Nations and people, Proclamation 10285 reestablished the Bears Ears Commission in accordance with the terms, conditions, and obligations set forth in Proclamation 9558. The Commission consists of one elected officer each from the Hopi Tribe, Navajo Nation, Ute Mountain Ute Tribe, Ute Indian Tribe of the Uintah and Ouray Reservation, and Pueblo of Zuni, designated by the officers’ respective Tribal Nations. Proclamation 9558 further requires the BLM and the USFS to meaningfully engage with the Commission regarding the development of the management plan and to inform management of Bears Ears.

The Tribal Nations that make up the Bears Ears Commission and the Federal agencies that are charged with administration of the monument each serve important roles in the planning, management, conservation, restoration, and protection of the sacred lands within the Bears Ears monument, as well as in the protection of ceremonies, rituals, and traditional uses that are part of the Tribal Nations' way of life on these lands since time immemorial. Tribal Nations, and particularly Tribal Elders, have important knowledge, local expertise, and an understanding of the spiritual significance of the Bears Ears region beyond the physical environment and is critical to inform the BLM and USFS planning processes and management of monument objects. As described in Proclamation 10285, the Bears Ears is both a cultural living space for Tribal members—holding the history of their traditions and cultural practices—and a location that is integral to their ceremonial practices and cultural traditions, as well as other activities and rituals. The Bears Ears is a living landscape that provides opportunities for Elders to convey to younger generations the stories, traditions, and practices of their people; to help them understand where they came from, who they are, and how to live. The landscape has been continually used by members of Tribal Nations since time immemorial to heal, practice their spirituality, pray, rejuvenate, and connect with their history. This agreement will serve, in part, to facilitate communication and understanding between the Tribal Nations and the Federal land managers to better protect ceremonial and traditional activities within the monument, as well as to preserve and integrate traditional knowledge of the region and apply that knowledge to inform Federal land management decisions.

This Cooperative Agreement is made and entered into between the Bureau of Land Management, U.S. Forest Service, Hopi Tribe, Navajo Nation, Ute Mountain Ute Tribe, Ute Indian Tribe of the Uintah and Ouray Reservation, and the Pueblo of Zuni to implement the direction in the Proclamation that requires the BLM and USFS to obtain input from the Commission into the development and implementation of the monument management plan. Further, the purpose of this Cooperative Agreement is to facilitate coordination and cooperative management of the Federal lands within the Bears Ears, for purposes of implementing the Proclamation and to provide consistent, effective, and collaborative management of the lands and resources.

B. Objective. The parties will seek to achieve these purposes by coordinating on land use planning and implementation, as well as the development of long-term resource management and programmatic goals. Through the Cooperative Agreement, the parties will work collaboratively to address Tribal issues, including developing robust outreach efforts to Tribal Nations and more effective mechanisms for Tribal government coordination. In doing so, the parties will ensure that Tribal priorities inform the management of the Bears Ears.

C. Authority. Section 307(b) of the Federal Land Policy and Management Act of 1976, as amended, 43 U.S.C. §§ 1701 et seq., provides that the Secretary of the Interior may undertake programs of resource management through Cooperative Agreements. The Wyden Amendment, Section 323 of Public Law 105-277, as amended by Public Law 107-63, Sec. 330; and permanently authorized by Public Law 111-11, Sec. 3001, authorizes the U.S. Forest Service to enter into Cooperative Agreements with willing Federal, Tribal, State, and local

governments for the protection, restoration, and enhancement of fish and wildlife habitat, and other resources on public or private land that benefit those resources within the watershed.

D. Benefits. This Cooperative Agreement will strengthen the management of Bears Ears by increasing public land management effectiveness, enhancing natural and cultural resource program coordination, and providing enhanced Tribal engagement in management decisions in order to ensure a greater level of consistency and effectiveness in the management of the resources within Bears Ears. The cooperative involvement of the Commission, Tribal officials, planners, resource specialists, and general membership will provide the BLM and USFS access to knowledge, expertise, resources, and services not otherwise available in the development and coordination of resource management programs, land use planning, and management of the resources within the Bears Ears.

II. Scope

A. The Parties agree to:

1. Cooperate in land use planning, including preparation of a monument management plan and travel management plan for Bears Ears, as well as subsequent, implementation-level decision-making.
2. Cooperate in program development (including education and interpretation about species, Tribal uses, and other monument objects), resource protection and public land access concerning Bears Ears.
3. Engage on an ongoing basis in joint dialogue, knowledge-sharing and learning programs for BLM and USFS managers and professional staff, Tribal officials, and other appropriate parties to address critical resource management, Tribal and agency program priorities, and a shared awareness of the Tribal context of the landscape, including the need to protect both visible and sacred Tribal uses and activities, as well as monument objects and other resources.
4. Coordinate, consult, and engage regularly on resource management priorities and joint management opportunities within the monument as follows:
 - a. Meet annually to develop a joint annual work plan that will set priorities for the year based on available funding, including, but not limited to, critical research opportunities, a schedule of site visit(s), shared training, discussions about planning a Visitor Center, visitor management initiatives, volunteer opportunities, interpretive signage needs, and categories of activities and types of agency decisions for which the Commission may elect to provide input, such as, authorizations regarding range improvements, developed recreation sites and areas, and special recreation permits.
 - b. Meet quarterly to coordinate and consult on Tribal Nations' land management priorities, public land resource issues, opportunities for joint Tribal-Federal program development, Commission participation in planning- and implementation-level

decision-making processes, landscape-level management issues, and to provide awareness of upcoming Federal actions and authorizations.

c. Engage regularly and frequently at the local level to coordinate Federal decision-making processes and to ensure Tribal knowledge, priorities, and interests are incorporated into the management of the monument.

5. Develop opportunities to engage Tribal youth in the culture and traditions of the Bears Ears, as well as the protection and management of the monument to cultivate a shared understanding of the monument's context and a shared stewardship for its resources.

6. Cooperatively seek additional partnerships, funds, and authorities to achieve shared Tribal and Federal land management goals.

7. Maintain the confidentiality of documents and deliberations to the extent legally permissible prior to the contents of such documents and deliberations becoming publicly available through official releases, such as the public release of any planning or NEPA documents, including drafts.

8. Take all reasonable measures to protect information regarding sacred sites, traditional ceremonies and other rituals from disclosure in order to prevent damage or desecration.

9. Adhere to the agreed upon schedule established for the monument management plan and other critical planning and decision-making timeframes as discussed below in Section VIII.

10. Explore opportunities for repatriating cultural resources and related data excavated or removed from Federal lands.

11. Work collaboratively to ensure Tribal Nations have access to sacred sites and other areas of Tribal importance in Bears Ears for cultural purposes, and for non-cultural purposes, such as gathering plants and firewood.

12. Work collaboratively to develop strategy for inventorying and monitoring the objects and values within the monument. Within this strategy, identify how to obtain the input from Tribal members, in particular Tribal Elders, who cannot travel to remote sites.

B. The Commission agrees to:

1. Coordinate, organize, and assure appropriate Tribal professional and executive involvement in programs within the scope of this Cooperative Agreement.

2. Identify and provide appropriate staff to engage in the development of the monument management plan and implementation-level planning, as well as implementation of initiatives developed pursuant to this Cooperative Agreement.

3. Provide specific information for identified monument landscapes to inform the BLM and USFS inventory of monument objects and values.

4. Develop and execute organizational documents for the Commission to memorialize roles and responsibilities, such as identifying a chairperson, and operating procedures, including internal dispute resolution, governing the Commission's activities, to facilitate engagement with the BLM and USFS on decisions regarding the management of the monument.

5. Notify the BLM and USFS about issues identified by other Tribal Nations with interests in the Bears Ears region that are not part of the Commission.

C. In order to implement the direction in Proclamation 10285 and Proclamation 9558, the BLM and USFS agree to:

1. Ensure that Federal policies reflect the needs of Tribal Nations and that Tribal leaders have a meaningful seat at the table before decisions are made that impact their communities by centering Indigenous voices, including increasing the recognition of the value of traditional Indigenous knowledge and empowering Tribal Nations to make decisions for their cultural, natural, and spiritual values.

2. Honor applicable Executive Orders, Secretarial Orders, and Memorandums of Understanding including, but not limited to, Executive Order 13175 of November 6, 2000, Consultation and Coordination With Indian Tribal Governments, Secretarial Order No. 3403: DOI and USDA Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters, and the November 16, 2021 Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Indigenous Sacred Sites.

3. Coordinate and consult with the Commission throughout land use planning and subsequent implementation-level decision-making processes concerning Bears Ears, including preparation of a monument management plan and a travel management plan.

4. Identify opportunities for development of initiatives to cooperatively conduct land management programs concerning Bears Ears.

5. Seek specific opportunities to involve the Commission in public land management activities concerning Bears Ears.

6. Coordinate, organize, and assure appropriate government professional and management involvement in programs within the scope of this Cooperative Agreement.

7. Ensure that Tribal knowledge and local expertise is reflected in agency decision making processes for Bears Ears. Develop and share information and data with the Commission, to the extent possible, to facilitate understanding of issues and sites, such as providing pictures and other information to Tribal Elders who cannot travel, and facilitate Tribal Nations' work and engagement on the management of the monument.

8. Provide opportunities for input on implementation of interim guidance issued jointly or individually by the BLM and USFS, including the BLM's interim monument

management guidance issued on December 16, 2021, which directs the BLM to (a) inventory monument objects and values, (b) review existing discretionary uses and activities within the monument to determine whether their impacts are consistent with the protection of the monument objects and values, and (c) update existing monitoring plans to ensure protection of monument objects and values.

9. Provide opportunities for input to the USFS review of existing discretionary uses and activities within the monument to determine whether their impacts are consistent with the protection of the monument objects and values.

10. Provide opportunities to review and provide input on BLM and USFS policy guidance for the Bears Ears prior to issuance.

III. Cooperative Agreement Duration, Modification and Termination

This Cooperative Agreement shall become effective on the date of signatures from all signatories. The parties will review this Cooperative Agreement within five years from the effective date, and within every five years thereafter. This Cooperative Agreement shall remain in effect until terminated or modified, without regard to the transition of Federal agency staff or members of the Commission. New staff and Commission members will assume the roles and responsibilities of their positions as outlined in this document.

This Cooperative Agreement does not modify or supersede existing agreements between the BLM or USFS and the Tribal Nations which have been otherwise executed between the parties.

This Cooperative Agreement may be modified, amended, supplemented, or terminated by mutual written consent of the parties. Any party may propose modification by notifying the others in writing. The parties agree to seek a mutually acceptable schedule to negotiate any modifications to the Cooperative Agreement. Any party may withdraw from this Cooperative Agreement by providing 30-days written notice to the other parties. The withdrawal of a party from this Cooperative Agreement will not affect that party's obligations under other agreements that the party may have entered into with the BLM or USFS and which reference this Cooperative Agreement, such as agreements concerning financial assistance.

IV. Financial Support

This document does not authorize the transfer of funds or anything of intrinsic monetary value, nor does it confer upon any of the signatories the authority to commit the Federal government to the expenditure of funds. It is anticipated that, at a future date, the transfer of funds will be necessary to implement the intent of this Cooperative Agreement. Any funds transferred under this Cooperative Agreement will be pursuant to future task agreements identifying the specific amounts and purposes of any transfers. Such transfers must be accomplished by a separate appropriate procurement or financial assistance instrument, which will be approved and issued by a warranted contracting officer or grants management specialist.

V. General Provisions

This Cooperative Agreement facilitates coordination and cooperative management of the Federal lands within the Bears Ears and respects, but does not curtail, the statutory and regulatory authorities and responsibilities of the signatories.

The commitments in this agreement enhance and supplement, but do not abrogate or replace, the agencies' obligations under applicable law to consult with Tribal Nations – particularly the requirements to engage in government-to-government consultation and to consult on historic properties pursuant to the National Historic Preservation Act.

This Cooperative Agreement does not serve as an endorsement by the BLM or USFS of any service or policy of the Commission or the Tribal Nations with representatives on the Commission.

In order for any party to this agreement (including the Commission) to use the insignia of any other party on any published media (such as a web page, printed publication, or audiovisual production), permission must be granted in writing from that party.

Each of the signatories warrants that he or she is authorized to enter into this Cooperative Agreement on behalf of the Party on whose behalf the signatory has executed the Cooperative Agreement.

Any information furnished between the signatories under this Cooperative Agreement may be subject to the Freedom of Information Act, 5 U.S.C. §§ 552 *et seq.* (FOIA). The signatories agree to consult one another prior to releasing potentially privileged or exempt documents. The signatories will take all appropriate action to keep confidential information shared regarding sacred sites, ceremonial activities, and other rituals.

The BLM Canyon Country District Manager and the Forest Supervisor for the Manti-La Sal National Forest will serve as the points of contact for the Federal agencies for activities pursuant to this Cooperative Agreement.

The Commission will designate an official point of contact and will be empowered to speak for the Commission with regard to activities pursuant to this Cooperative Agreement.

VI. Facilitating Communication on Agency Decision-Making

At least 15 days¹ prior to initiating a planning or implementation-level project that falls within the activities and decisions identified in accordance with paragraph II.A.4.a, the BLM or USFS will provide initial notification to the Commission and provide an opportunity to coordinate via email. If the Commission responds within 15 days via email electing to participate in the consultation process, the BLM or USFS will provide a schedule that includes the timeframes for the Commission to provide input as part of each internal review stage and before the final decision is issued. The BLM or USFS will provide notice to the Commission at least 15 days before of each internal review stage and before the final decision is issued. If the Commission

¹ All deadlines in this section are in calendar days.

does not respond to the notification or declines to participate in the consultation process, the BLM or USFS may provide notice of the final decision five days before it is issued. The parties may agree to modify these time frames if they do not provide adequate time to ensure appropriate coordination with the Commission in agency decision-making processes.

If the Commission determines that more time is needed to provide feedback to the Federal agencies than was provided in an established planning- or implementation-level decision-making schedule, they will provide the BLM or USFS, as appropriate, timely notice with an explanation of why more time is needed and will propose a reasonable timeframe to provide input. While the BLM and USFS are not obligated to provide additional time, the agencies will endeavor to grant a reasonable extension as long as the delay will not change the schedule to issue the final decision.

If the authorized officer for the BLM or USFS decides not to incorporate specific recommendations timely submitted by the Commission in writing during a planning- or implementation-level decision-making process, they will provide the Commission written explanation at least 30 days prior to issuing the planning document on which the comments were provided (e.g., draft or final environmental impact statement or draft or final environmental assessment). Within 15-days of receiving the written explanation, the Commission may request a meeting with the BLM State Director or USFS Regional Forester, as appropriate, to discuss any disagreements with the Authorized Officer's explanation before the decision is finalized.

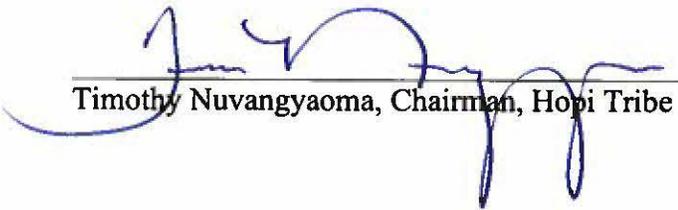
VII. Counterparts:

This Cooperative Agreement may be executed in counterpart originals and each copy will have the same force and effect as if signed by all parties.

IN WITNESS WHEREOF, the parties have executed this Cooperative Agreement.

Approvals:

APPROVED:
For the HOPI TRIBE



Timothy Nuvangyaoma, Chairman, Hopi Tribe

Date: June 18, 2022

APPROVED:
For the NAVAJO NATION


Jonathan Nez, President

Date: 06.16.2022

APPROVED:
For the UTE MOUNTAIN UTE TRIBE



Malcolm Lehi, Councilman, Ute Mountain Ute Tribe

Date: 6-18-22

APPROVED:

For the UTE INDIAN TRIBE OF THE UINTAH AND OURAY RESERVATION



Christopher Tabbee, Uncompahgre Band Representative
Business Committee of the Ute Indian Tribe of the Uintah and Ouray Reservation

Date: June 18, 2022

APPROVED:
For the PUEBLO OF ZUNI



Carleton R. Bowekaty, Lieutenant Governor, Zuni Tribe

Date: June 18, 2022

APPROVED:
For the UNITED STATES DEPARTMENT OF THE INTERIOR



Tracy Stone-Manning, Bureau of Land Management, Director

Date: 6.18.22

APPROVED:
For the UNITED STATES DEPARTMENT OF AGRICULTURE

Homer L Wilkes

Homer L. Wilkes, Under Secretary, Natural Resources and Environment,
U.S. Department of Agriculture

Date: 18 June 22