

TRIBAL CO-STEWARDSHIP: CHALLENGES & LESSONS

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April 4, 2024



Why Co-Stewardship?

- Opportunity for more control over lands that are not Tribally-owned fee land or trust land
- Greater role for tribes in planning and policymaking
 - Seat at the table to help decide how land will be managed
 - Participation beyond notice-and-comment procedures run by federal agencies (proactive rather than reactive)
- Chance to advance policy objectives centering Indigenous interests in land restoration, cultural respect, and environmental responsibility



Terminology

- Co-Stewardship: collaboration between Tribes and government agencies related to shared interests in managing, conserving, and preserving Federal lands and waters
 - Cooperative agreements, sharing technical expertise, funding agreements, and combined efforts and resources
- Co-Management: narrowly refers to collaborative or cooperative stewardship arrangements that are undertaken pursuant to Federal authority that requires the delegation of some aspect of Federal decision-making



Background on Tribal Co-Stewardship Policy

- Joint Secretarial Order 3403 (Nov. 15, 2021)
 - Issued by Secretary of the Interior and Secretary of Agriculture
 - Section 1 acknowledges past management of Federal lands and waters by Tribes and says Departments have “highest trust responsibility” to promote Tribal interests and nation-to-nation relationship
 - Section 5: “The Departments will endeavor to engage in co-stewardship where Federal lands or waters, including wildlife and its habitat, are located within or adjacent to [tribal land] . . . or where requested by a federally recognized Indian Tribe.”





Background on Tribal Co-Stewardship Policy

- Joint Secretarial Order 3403 (Nov. 15, 2021)
 - Tribal consultation in early phases of planning and decisionmaking
 - Consider Tribal expertise and/or Indigenous knowledge
 - Promote use of collaborative agreements and/or provisions in land management plans
 - Develop and implement employee performance review standards that evaluate progress toward meeting goals
 - Cross-Department co-stewardship
 - Evaluate and update Department Manuals, handbooks, and other guidance for consistency with Joint Secretarial Order





Updated Co-Stewardship Guidance

- BLM Permanent Instruction Memorandum No. 2022-011 (Sept. 13, 2022)
- BIA National Policy Memorandum DBIA-2 (Nov. 18, 2022)
- NPS Policy Memorandum 22-03 (Sept. 12, 2022)
- USFWS Director's Order No. 227 (Sept. 8, 2022)





Legal Authority for Tribal Co-Stewardship

- Treaty Rights
- Federal Trust Responsibility
- Federal Statutes/Regulations
- Executive Orders
- Departmental/Agency Orders and Guidance
- Limits on Delegation of Federal Authority
 - Agencies not supposed to delegate away final decision-making authority to parties outside the agency without proof that Congress intended that result



Tribal Co-Stewardship Progress

- Most agreements confidential, but United States has tried to keep running estimates of agreements
- White House Tribal Nations Summit Progress Report (December 2023)
 - Over 190 new Tribal Co-Stewardship or Co-Management Agreements in 2023
- DOI Annual Reports on Tribal Co-Stewardship
 - 2022: 13 unique co-stewardship agreements with 18 unique Tribes, Alaska Native Corporations, and consortia
 - 2023: About 70 new agreements
- USDA Annual Reports on Tribal Co-Stewardship
 - 2022: 11 agreements with 13 tribes finalized / at least 60 agreements with 45 Tribes in process
 - 2023: More than 120 new agreements



Bears Ears National Monument

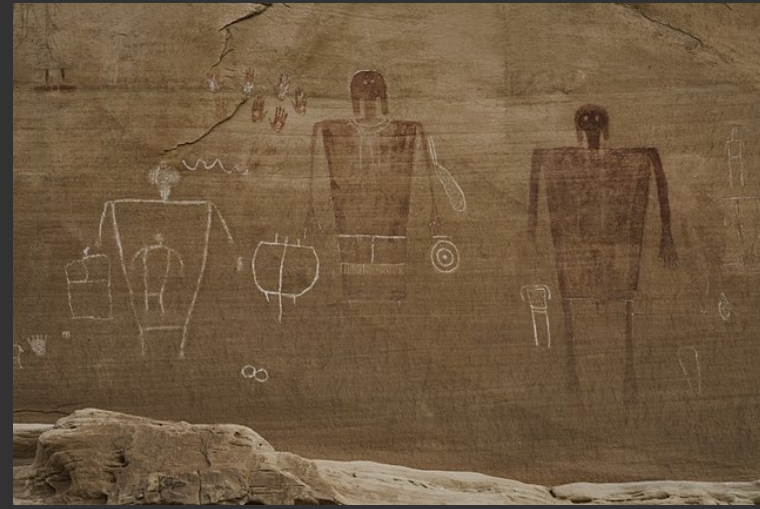

Democracy Dies in Darkness

Native American tribes to co-manage national monument for first time

The unprecedented agreement gives five tribes more input in the management of Bears Ears National Monument in Utah

By [Maxine Joselow](#)

Updated June 20, 2022 at 12:44 p.m. EDT | Published June 20, 2022 at 11:41 a.m. EDT



Avi Kwa Ame National Monument



- Proclamation 10533 of March 21, 2023 established Avi Kwa Ame (Spirit Mountain)
- Proclamation calls for Memorandum of Understanding with interested Tribal Nations to set forth terms for co-stewardship of the Monument



<https://www.yuroktribe.org/post/save-the-redwoods-league-the-yurok-tribe-and-park-partners-sign-historic-agreement-to-return-triba>

- Just last month, the Yurok Tribe signed an agreement with the National Parks Service, the California State Parks Service, and Save the Redwoods League for co-stewardship of Redwood National and State Parks



Case Study: Molok Luyuk (Condor Ridge)

- Molok Luyuk is currently officially known as Walker Ridge between Lake and Colusa Counties in Northern California
- Molok Luyuk is central to Patwin people's origin story and contains sites and resources of significant cultural value
- Ongoing Co-Stewardship Agreement negotiation between Patwin Tribes (Yocha Dehe Wintun Nation, Kletsel Dehe Wintun Nation, and Cachil Dehe Band of Wintun Indians of the Colusa Indian Community) and BLM





Molok Luyuk
Lake and Colusa Counties



<https://www.powerinnature.org/places/molok-luyuk/>





Photo: Tuleyome





<https://www.cnps.org/conservation/protect-molok-luyuk>





Photo: Bob Wick, <https://www.flickr.com/photos/blmcalifornia/52310247836/in/photostream/>





Photo: Bob Wick, <https://www.flickr.com/photos/blmcalifornia/52310247531/in/photostream/>





Challenges

- Long process with numerous stakeholder viewpoints/perspectives to accommodate
- Nebulous decision-making authority
- Under-resourced agency staff
- Deciding where to focus the co-stewardship agreement
- No clear template to work from
- No clear dispute resolution process
- Defining the area covered by the Agreement





Lessons

- Expectation setting about lengthy process
- Start getting things in writing as soon as possible
- If it feels like the negotiating team is too big to be productive, make it smaller
- Tribes can help add resources to support under-resourced Field Offices
 - Or Federal Government tools and funding can provide assistance
- All on the same team



Thank you!

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