

Background Material on the Kasha-Katuwe Tent Rocks National Monument

THE ANTIQUITIES ACT

Section 2 of the Antiquities Act, 16 U.S.C. 431, authorizes the President to establish as national monuments “historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States....”

Objects of Historic or Scientific Interest

The Kasha-Katuwe Tent Rocks National Monument is located in north central New Mexico. Elevations within the monument range from about 5,560 feet to about 6,760 feet above sea level. The outer boundaries of the area encompass approximately 5,394 acres of land, approximately 4,114 acres of which are owned by the federal government and managed by the Bureau of Land Management (BLM). The proclamation describes objects in the area that warrant protection as a monument.

Located on the Pajarito Plateau in north central New Mexico, the Kasha-Katuwe Tent Rocks National Monument is a remarkable outdoor laboratory, offering an opportunity to observe, study, and experience the geologic processes that shape natural landscapes, as well as other cultural and biological objects of interest. Rich in pumice, ash, and tuff deposits, the light-colored cone-shaped tent rock formations are the products of explosive volcanic eruptions that occurred between 6 and 7 million years ago. Small canyons lead inward from cliff faces, and over time, wind and water have scooped openings of all shapes and sizes in the rocks and have contoured the ends of the ravines and canyons into smooth semicircles. In these canyons, erosion-resistant cap rocks protect the softer tents below. While the formations are uniform in shape, they vary in height from a few feet to 90 feet, and the layering of volcanic material intersperses bands of gray with beige-colored rock.

Amid the formations and in contrast to the muted colors of the rocks of the monument, vibrant green leaves and red bark of manzanita, a shrubby species from the Sierra Madre of Mexico, cling to the cracks and crevices of the cliff faces. Red-tailed hawks, kestrels, violet-green swallows, and Western bluebirds soar above the canyons and use the pinion and ponderosa covered terrain near the cliffs.

The complex landscape and spectacular geologic scenery of the Kasha-Katuwe Tent Rocks National Monument has been a focal point for visitors for centuries. Human settlement is believed to have begun near the monument as a series of campsites during the Archaic period, from approximately 5500 B.C. During the fifteenth century, several large ancestral pueblos were established in the area. Their descendants, the Pueblo de Cochiti, still inhabit the surrounding area. Although the Spanish explorer Don Juan de Oñate reached the Pajarito Plateau in 1598, it

was not until the late eighteenth century that families began to claim land grants around Tent Rocks from the Spanish Crown. Remnants of human history are scattered throughout the monument.

The area was given the administrative designation of Area of Critical Environmental Concern in the 1986 Rio Puerco Resource Management Plan.

Land Area Reserved for the Proper Care and Management of the Objects to be Preserved

The Antiquities Act authorizes the President, as part of his declaration of a national monument, to reserve land, “the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.” 16 U.S.C. ' 431. The area reserved has been carefully delineated, based on review of available information, to meet the goals of effectively caring for and managing the objects in perpetuity. It includes the geological, historical, and biological objects identified in the proclamation. Preservation of such objects requires, among other things, protection of enough land to maintain the conditions that have made their continued existence possible. The scientific value of the objects within the monument requires preservation of areas large enough to maintain the objects and their interactions. Many species that exist within the monument rely upon the entire area to maintain viable populations and their role in the ecosystem.

Others objects of scientific and historic interest are scattered throughout the monument. While geological sites are by definition identifiable discrete concentrations on the landscape, much of their scientific significance stems from interrelationships among such sites when considered in a much larger comparative context. Protection of the aggregate area is necessary for proper care of the objects. For these reasons, our analysis indicates that reservation of a smaller area would undermine proper care and management of the objects to be protected by this monument.

LEGAL EFFECTS OF THE PROCLAMATION

There are several significant aspects of the proclamation. First, it reserves only the federal lands in the area, because the Antiquities Act applies only to objects of historic or scientific interest “that are situated upon the lands owned or controlled by the Government of the United States”. 16 U.S.C. ' 431.

Second, the proclamation is subject to valid existing rights. Thus, to the extent a person or entity has valid existing rights in the federal lands or resources within the area, the proclamation would respect their rights. The exercise of such rights could, however, be regulated in order to protect the purposes of the monument.

Third, the proclamation appropriates and withdraws the federal lands and interests in lands within the boundaries of the monument from entry, location, sale, leasing or other disposition under the public land laws, including but not limited to withdrawal 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. This withdrawal prevents the location of new mining claims under the 1872 Mining Law, and prevents the Secretary of the Interior from exercising discretion under the mineral leasing acts and related laws to lease or sell federal minerals within the boundaries of the monument.

Fourth, the proclamation does not reserve new water resources under federal law pursuant to the so-called Winters doctrine, but would not relinquish or abandon any existing federal rights. The proclamation would direct the Secretary of the Interior to work with appropriate state and tribal authorities to ensure that water resources needed for monument purposes are available.

Fifth, the proclamation directs the Secretary of the Interior to retire the portion of the grazing allotments within the monument, pursuant to applicable law, unless the Secretary specifically finds that livestock grazing will advance the purposes of the proclamation.

Sixth, the Secretary of the Interior will prepare, within 3 years, a management plan for this monument, and shall promulgate such regulations for its management, as he deems appropriate. The management plan shall include appropriate transportation planning that addresses the actions, including road closures or travel restrictions, necessary to protect the objects identified in this proclamation and to further the purposes of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996).

ADMINISTRATION OF THE MONUMENT

Management by the Bureau of Land Management

The federal lands in the area described in the proclamation are currently under the jurisdiction of the BLM in the Department of the Interior. BLM manages the land pursuant to its basic organic authorities, the primary one being the Federal Land Policy and Management Act of 1976 (FLPMA).

The proclamation has the Secretary of the Interior manage the monument through the BLM, under its existing authorities, but subject to the overriding purpose of protecting the objects described in the proclamation. The establishment of the monument thus constitutes an overlay on the management regime otherwise applicable to lands managed by the BLM. It limits the management discretion that the BLM would otherwise have by mandating protection of the historic and scientific objects within the national monument.

The area is the subject of an inter-governmental cooperative agreement between the BLM and the Pueblo de Cochiti, entered into on September 19, 2000. The purpose of the agreement is to coordinate and cooperatively manage federal and Pueblo lands within and adjacent to the Tent Rocks area in order to provide for more consistent, effective, and collaborative management of federal and Pueblo lands. An arrangement with the Pueblo is important to the monument because, among other things, it facilitates public access to the monument. The agreement should be reviewed and, if necessary, revised to ensure its consistency with the Proclamation.

Impact of Monument Designation on Existing or Planned Activities in the Area

Currently permitted livestock grazing

A very limited amount of livestock grazing occurs on portions of two allotments within the monument; specifically, 15 cows graze on one allotment year round and up to 36 graze on the another allotment during specific months of the year. The proclamation directs the Secretary of the Interior to retire the portion of the grazing allotments within the monument, pursuant to applicable law, unless the Secretary specifically finds that livestock grazing will advance the purposes of the proclamation. The animal unit months should be reallocated to the extent there is available forage.

Recreation, hunting, fishing and similar activities

Recreation and other similar uses are generally not affected except where (1) the BLM, through processes required by existing law, identifies places where such uses ought to be restricted or prohibited as necessary to protect the federal lands and resources, including the objects protected by the monument designation; or (2) the BLM finds a clear threat from such a use to the federal lands and resources, including the objects protected by the monument designation, and the circumstances call for swift protective action. Such uses would, of course, remain subject to applicable laws and regulations, and would therefore remain subject to regulation and limitation under such provisions for reasons other than establishment of the monument. Hunting and fishing will continue to be governed under applicable law.

Use of existing rights-of-way (such as those established under Title V of FLPMA)

Use of existing rights-of-way will generally be subject to the same standards as described in the above section. Some existing rights-of-way may include valid existing rights. The exercise of such rights may be regulated in order to protect the purposes of the monument, but any regulation must respect such rights.

Access

For purposes of protecting the objects identified in the proclamation, it prohibits motorized and mechanized vehicle travel off road, except for authorized administrative or emergency purposes. The current management plan confines

vehicular traffic to existing roads, so there should be no change in actual practice. The proclamation directs the Secretary to develop a transportation plan that addresses road closures or travel restrictions as necessary to protect the objects identified in this proclamation. Because vehicles can access the monument only through the Pueblo de Cochiti Indian Reservation, and the Pueblo has been an active partner in the management of the area for many years, such planning should be done in coordination with the Pueblo de Cochiti, pursuant to the “Inter-Governmental Cooperative Agreement for the Cooperative Management of Tribal and Federal Lands at Tent Rocks, New Mexico.”

Activities on private and state land

The area within the boundaries of the monument contains approximately 520 acres of state land and approximately 760 acres of private land. The monument designation would not apply to those lands, but the proclamation provides that if any state or private lands within the outer boundaries of the monument are acquired in the future, they would become part of the monument. In the absence of acquisition, the laws applicable to the use of state or private lands, including access thereto, prior to establishment of the monument, would continue to apply.

Mining activities

The area has no known potential for oil and gas development. The monument contains 3 unpatented mining claims. To the extent these claims contain a valid discovery of a valuable mineral deposit as of the date of this designation, they would be respected as valid existing rights. The exercise of such rights may be regulated in order to protect the purposes of the monument, but any regulations must respect such rights. Existing mining claims that lack a valid discovery of a valuable mineral deposit have no valid existing rights; activities on such claims may be regulated or prohibited to protect the purposes of the monument. New mining claims would be prohibited as the proclamation withdraws the area from the 1872 Mining Law.