



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Washington, D.C. 20240

<http://www.blm.gov>



In Reply Refer To:
8100 (240)

MAR 12 2009

Dear Tribal Leader:

As part of our ongoing Bureau of Land Management (BLM) tribal consultation outreach efforts, we invite you to attend one of our 2009 regional listening sessions. We began this effort last August to find ways to make our tribal consultation more effective and to improve our day-to-day working relationship with your tribe.

Background

Our August 21, 2008 letter (Enclosure 1) asked about your experience with the BLM and your ideas on how we can improve our working relationship. We greatly appreciate all those who responded to the August letter. If you would like to respond and have not done so, your thoughts, comments, and suggestions are still welcome. The letter included copies of our 8120 manual section *Tribal Consultation under Cultural Resources Authorities* and H-8120-1 handbook, *Guidelines/or Conducting Tribal Consultation*. It also included copies of the national Programmatic Agreement (PA) that we maintain with the Advisory Council on Historic Preservation (ACHP) and the National Conference of State Historic Preservation Officers (NCSHPO) and the protocol under that agreement that applies in your State. The 8120 manual section and associated handbook, H-8120-1, are stand alone guidance on tribal consultation under cultural resource authorities. The P A and individual protocols developed with each SHPO define how the BLM consults with states and the ACHP under section 106 of the National Historic Preservation Act.

Listening Sessions

Last year, the BLM held the first of a series of listening sessions on October 22 in Anchorage, Alaska. This spring, we are hosting additional listening sessions in Phoenix, Arizona (April 8), Billings, Montana (April 15), Albuquerque, New Mexico (April 24), Boise, Idaho (May 6), Reno, Nevada (May 19), and Palm Springs, California (May 20). Additional information regarding these sessions is attached (Enclosure 2). Managers from the BLM states listed for each listening session will be in attendance to speak with tribal representatives. We hope that you will be able to join us at one of these locations. We are looking forward to hearing your ideas and recommendations for improving how the BLM consults with tribes and any other suggestions you may have on working together. If your tribe cannot attend a listening session, and would like to meet individually with a BLM State or Field Office, please let us know so we can help make those arrangements.

Results of Tribal Consultation Outreach

The results of our outreach effort will be used to improve the BLM's procedures and policies for consultation with tribes. The results will also be used to develop appropriate revisions to the P A, as per our recent addendum to that agreement (Enclosure 3). The addendum outlines milestones and a schedule for completing outreach and a revision to the PA. We encourage you to tell us if you have recommendations specific to this part of our initiative.

More information on the BLM may be found on our web site at www.blm.gov. You can find electronic copies of manual section 8120, *Tribal Consultation Under Cultural Resource Authorities*, and the associated handbook, H-8120-1, *Guidelines/or Conducting Tribal Consultation*, on the web site in the Information Center under, "Laws, Regulations and Policies." More information on our cultural resources and tribal consultation programs, including the PA and individual BLM state protocols, is available at: <http://www.blm.gov/wo/st/en/prog/more/CRM.html>.

The BLM looks forward to continuing to work with you to improve the effectiveness of our tribal consultation. For additional information or if you or your staff has any questions, please contact the BLM Tribal Coordinator, Jerry Cordova at (202) 452-7756, jerry_cordova@blm.gov or our Preservation Officer, Robin Burgess at (202) 785-6581, robin_burgess@blm.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Pool", with a large, sweeping flourish above the name.

Mike Pool
Acting Director

3 Enclosures

- 1-Aug 21,2008 Letter to Tribal Leaders
- 2-BLM 2009 Regional Listening Sessions
- 3-Addendum to the P A



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In Reply Refer To:
8100 (240)

AUG 21 2008

Dear Tribal Leader:

We are writing because you are a valued partner to the Bureau of Land Management (BLM). We are committed to meeting our responsibilities to consult with you as part of our historic preservation planning and compliance process. We want to do this as effectively as possible. To this end, we would like to ensure you are aware of our consultation policies, we would like to know about your experience with the BLM, and we would like to hear your ideas on how we can improve our working relationship.

Background

The BLM is responsible for 258 million acres of public land, mostly in the West. We also manage about 700 million acres of subsurface mineral estate nationwide. Our agency manages these lands with the mandate of multiple use and sustained yield. This means that our agency's responsibilities include balancing commercial uses, recreational opportunities, and conservation. Commercial uses include oil and gas, forage for livestock, forest products and hard rock mining that help meet our nation's needs. We allocate land uses through a public land use planning process and make management decisions to authorize commercial and other activities based on review of specific land use applications.

When reviewing land-use applications, such as for oil and gas development or recreational activities, the BLM must fulfill its responsibilities under the National Historic Preservation Act (NHPA) Section 106 and other cultural resources laws. Tribes are important partners in this process. For many years, the BLM has had a manual and handbook to assist its offices in performing tribal consultation. The BLM updated these tribal consultation guidelines in December 2004, to reflect the most recent cultural resources authorities.

This Initiative

The goal of this initiative is to improve two-way communication and understanding, to identify problems or hindrances within communication channels, and provide timely resolutions. It is part of an overall effort between the BLM, the Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) to review the BLM's NHPA compliance process,

including a national Programmatic Agreement (PA) the BLM signed with the ACHP and NCSHPO in 1997.

In support of this goal, we have enclosed copies of our current agency policies on tribal consultation under cultural resources authorities: Manual Section 8120, *Tribal Consultation Under Cultural Resource Authorities* and Handbook H-SI20-1, *General Procedural Guidance for Native American Consultation*. The purpose of our manual and handbook guidance is to ensure that tribal governments, Native American communities, and individuals whose interests might be affected, have sufficient opportunity for productive participation in BLM planning and resource management decision making.

Manuals are stand alone mandatory guidance for our agency. Handbooks provide specific operational guidance and are advisory. We want you to have a chance to read what we tell our employees about their responsibilities to consult with tribes, specifically under cultural resources authorities, including NHPA Section 106. The NHPA Section 106 requires consultation with any Indian Tribe that attaches religious and cultural significance to properties that are listed on or eligible for the National Register of Historic Places and may be affected by a BLM undertaking, regardless of whether the historic property is on or off tribal land.

In addition to the BLM current policy and guidance, we are sending copies of documents that govern our consultation with the ACHP and most State Historic Preservation Offices (SHPO), specifically under the NHPA. For the NHP A compliance off tribal lands, the BLM signed an agreement in 1997 with the ACHP and NCSHPO. The PA streamlines consultation with the SHPOs and the ACHP so these signatories can focus their attention on projects that are more complicated or controversial. The states of Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Oregon and Wyoming have state-specific protocols for operating under the P A.

The authority to streamline consultation with the ACHP and SHPOs has been a great help to the BLM in meeting compliance requirements. It does not alter the BLM's responsibilities for tribal consultation and it does not apply to any undertakings on tribal lands, where the BLM follows the federal regulations described in 36 CFR Part SOO to meet its responsibilities under Section 106. For your information, we are enclosing a compact disk with copies of our 1997 PA and the protocol between the BLM State Director and the SHPO in your state.

We would appreciate your help in ensuring that our tribal consultation process is clear and effective. We also want to ensure that our operating procedures, as outlined in our manual and handbook guidance on tribal consultation, the P A, and individual state protocols are consistent with our responsibilities to Consult with you regarding potential impacts to resources off tribal lands that are valued by your tribe.

How you can help

We would like to know if you have any questions, comments or concerns about the BLM's tribal consultation procedures and policies, as outlined in our enclosed manual,

Tribal Consultation Under Cultural Resource Authorities, handbook, *General Procedural Guidance for Native American Consultation*, the PA, and the protocol that the BLM follows with the SHPO for your state under the PA. We would also like your suggestions for making our consultation with your tribe more effective; Is your tribe interested in pursuing any of the following:

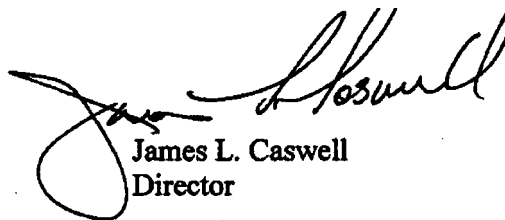
- A consultation protocol with a BLM State or Field Office on how and when we contact you?
- A written agreement with a BLM State or Field Office on the types of resources and projects in which your tribe does and does not have an interest?
- More direct interaction about pending projects?
- More efficient notification of pending projects using the internet?
- Meeting with the BLM to discuss consultation policies and procedures, including our manual section, handbook, the P A. or the protocol in effect between the BLM and the SHPO in your state, in more detail?

We look forward to hearing your thoughts, comments, and suggestions on this subject. Please send your written responses to our Tribal Liaison at the address below. We would greatly appreciate your response by October 15, 2008, if possible.

Jerry Cordova BLM
Tribal Liaison
Bureau of Land Management
Department of Interior
1849 C Street, NW 20240

We also plan to hold regional listening sessions. We intend to determine the best locations for these sessions based in part on responses to this letter and will notify you of the dates and times as soon as they are scheduled. We look forward to working with you to improve the effectiveness of our consultation process. You can find additional information about the BLM at www.blm.gov.

If you or your staff has any questions, please contact the BLM Tribal Coordinator, Jerry Cordova at (202) 452-7756, jerry_cordova@blm.gov or our Preservation Officer, Robin Burgess at (202) 785-6581, robin_burgess@blm.gov.



James L. Caswell
Director

Enclosures



Bureau of Land Management Tribal Consultation Outreach Regional Listening Sessions

April 8, 2009, Phoenix, Arizona

BLM National Training Center, 12-4 PM

9828 N. 31st Avenue, Phoenix, Arizona 85051 (602-906-5500)

Participating States: Arizona, California, Nevada and New Mexico

Contact: Michael D. Johnson (Michael_d_johnson@blm.gov or 602-417-9236)

April 15, 2009, Billings, Montana

Hampton Inn, 9 AM-Noon

5110 Southgate Drive, Billings, Montana 59101 (406-896-5214)

Participating States: Montana and Wyoming

Contact: Gary Smith (gary_smith@blm.gov or 406-896-5214)

April 24, 2009, Albuquerque, New Mexico

Center Marriott Journal Center, 4-7 PM

5151 Journal Center Boulevard, Albuquerque, New Mexico 87109 (505-823-1919)

Participating States: New Mexico and Colorado

Contact: Signa Larralde (signa_larralde@blm.gov or 505-438-7637)

May 6, 2009, Boise, Idaho

BLM Idaho State Office, Natural Resource Center, 1-4 PM

1387 S. Vinnell Way, Boise, Idaho 83709 (208-373-4016)

Participating States: Idaho, Nevada and Oregon

Contact: Stan McDonald (stan_mcdonald@blm.gov or 208-373-4043) or Cheryle Zwang (cheryle_zwang@blm.gov or 208-373-4016)

May 19, 2009, Reno, Nevada

Eldorado Hotel and Casino, Bordeaux/Claret Rooms, 4-8 PM

345 N. Virginia, Reno, Nevada 89501 (800-648-4597)

Participating States: Nevada, California and Oregon

Contact: Tom Burke (tom_burke@blm.gov or 775-861-6415)

May 20, 2009, Palm Springs, California

Spa Resort Casino Hotel, Canyon Conference Center, 2-6 PM

100 N. Indian Canyon Drive, Palm Springs, California 92262 (888-999-1995).

Participating States: California

Contact: Rolla Queen (rolla_queen@blm.gov or 951-697-5386)

5 Jan 2009

Addendum 10 the Programmatic Agreement among the Bureau of Land Management (BLM), The Advisory Council on Historic Preservation (ACHP), and the National Conference of State Historic Preservation Officers (NCSHPO) Regarding the Manner in Which BLM will meet its Responsibilities under the National Historic Preservation Act (NHPA).

Basis/or Addendum

WHEREAS, the undersigned recognize the complex and challenging mission of the BLM and the reliance of all signatories on the streamlining provisions and partnering commitments made possible by the subject national programmatic agreement (PA) for meeting the BLM's NHP A Section 106 compliance responsibilities;

WHEREAS, the BLM tribal consultation policy calls for State Directors, District Managers, and Field Office Managers to consult with tribes in government-to-government meetings to identify and consider their concerns in land use planning and decision-making, including development or revision of statewide cultural resource protocols and other agency guidance directing tribal consultation processes;

WHEREAS, the BLM has completed the following provisions in the 1997 PA: (1) establishment of a Preservation Board; (2) notification of Indian tribes and the public that it was beginning the review, revision, adaptation and augmentation of various relevant sections of its 8100 Manual series; (3) initial certification of the BLM State and Field Offices; and (4) establishment of a training program; and

WHEREAS, (1) the 36 CFR Part 800 regulations were revised in 1999 and 2004, (2) alternative procedures must be consistent with the regulations, and (3) the BLM is committed to ensuring that the BLM process for complying with the NHPA Section 106 affords tribes and consulting parties opportunities for participation consistent with 36 CFR Part 800 and Section 101 (d) (6) of the NHP A;

WHEREAS, the BLM completed a revision of the Guidelines for Conducting Tribal Consultation Handbook (H-8120-1 formerly H-8160-1), and Tribal Consultation under Cultural Resource Authorities Manual Section (8120 formerly 8160) and other manual sections to reflect the latest legal authorities in 2004;

WHEREAS, the signatories have determined the need to update the P A to incorporate further the role of Indian tribes;

WHEREAS, the BLM initiated an outreach effort in August 2008 that, through correspondence and listening sessions, invited tribal leaders to provide suggestions to the BLM on the P A and for making tribal coordination and consultation more effective;

NOW, THEREFORE, the BLM, the ACHP and the NCSHPO agree to the following addendum to this agreement:

Addendum I: Consultation with Indian tribes:

The BLM shall continue holding listening sessions with tribes to achieve the goals of this addendum.

No later than 60 days from the date of the appointment of its new director, the BLM shall initiate the notification process to the public of its intent to update the PA in order to incorporate further the role of Indian tribes in the PA and any implementing mechanisms consistent with 36 CFR Part 800 and Section 101 (d) (6) of the NHPA.

No later than 6 months from the date of this addendum, the signatories (1) shall meet to discuss preliminary findings from tribal listening sessions, and (2) shall begin developing revisions to the PA consistent with 36 CFR Part 800 and Section 101 (d) (6) of the NHPA.

No later than 8 months from the date of this addendum, (1) the BLM shall provide signatories with a report on findings from the listening sessions, including any appropriate recommendations from the tribal listening sessions on the P A revisions, and (2) signatories shall report any new emphases resulting from the change in Administration that need to be considered.

No later than 12 months from the date of this addendum, the BLM, in consultation with the signatories and Indian tribes, shall develop mutually agreeable revisions to the P A to provide appropriate opportunities for tribal consultation and a process for developing subsequent implementing actions. Within 30 days after the BLM provides the proposed revisions, the signatories shall either (1) adopt the revisions; (2) determine that significant progress has been made to reach mutually agreeable revisions and allow additional time for such revisions to be made or a process for implementing actions to be developed; or (3) decide to revert to operation under 36 CFR Part 800.

BUREAU OF LAND MANAGEMENT

BY: *James L. Caswell*
JAMES L. CASWELL, DIRECTOR

DATE: 1/16/09

ADVISORY COUNCIL ON HISTORIC PRESERVATION

BY: *John L. Nau III*
JOHN L. NAU, III, CHAIRMAN

DATE: 2/4/09

NATIONAL CONFERENCE OF STATE HISTORIC PRESERVATION OFFICERS

BY: *Jay D. Vogt*
JAY D. VOGT, PRESIDENT

DATE: 01-26-2009