

# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
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EMS TRANSMISSION 2/23/2009  
Instruction Memorandum No. AZ-2009-008  
Expires: When Superseded or Canceled

To: State Leadership Team  
Attention: Program Leads

From: State Director

Subject: Litigation Holds - Preserving and Inventorying Records

**Purpose:** This Instruction Memorandum (IM) establishes procedures for preserving records relevant to an existing lawsuit or when there is anticipation of foreseeable litigation even if no specific claim has been filed. Attachment 1 provides Arizona form (AZ-1872-1, "Litigation Hold - Record Inventory Report") for employees to list all information in their possession relevant to the subject of the (potential) litigation.

**Policy/Action:** Any employee who creates or has possession of information that is related to a controversial or otherwise potentially litigious subject must take reasonable steps to preserve that information. Reasonable steps, at a minimum, include ensuring the information is not purged pursuant to a records disposition schedule or otherwise inadvertently destroyed. Instead, the information must be stored where it can be safely retained and accessible in case of litigation.

When instructed by the Office of the Solicitor (SOL) of a litigation hold and to assist in identifying the scope of the relevant information, employees must complete form AZ-1872-1, Litigation Hold - Record Inventory Report, for the relevant records in their possession. The completed form should be provided to the State Records Administrator (AZ-954.56) within two weeks of notification of the litigation hold.

The types of information that must be preserved consist of all "documents, data, and tangible things" in the possession, custody, or control of the Bureau of Land Management (BLM) that contain information that is or may be relevant to the issues of the known or anticipated litigation. This includes paper documents, electronically stored information (ESI), and other materials such

as maps, videos, calendars, charts, and similar items. ESI must be preserved in its original electronic form so that all information contained within it, whether visible or not (metadata), is also available for inspection. ESI includes, but is not limited to: e-mail, including attachments; instant messages; electronic calendars, task lists, and other organizational aids; word processing documents; spreadsheets; databases; audio and video recordings; and voicemail (voicemail messages must be transcribed to writing and preserved in the same manner as other hard copy documents).

The obligation to preserve information applies to the information that already exists as well as any information that is generated in the future

**Timeframe:** This policy is effective immediately and remains in effect until canceled or superseded.

**Background:** Litigation gives rise to an important obligation under Federal law to preserve information that may be relevant to the issue(s) surrounding a dispute. Individual BLM employees and contractors are required to ensure that all relevant information is maintained where it can readily be retrieved and made available to the attorneys involved in the case.

**Manual/Handbook Sections Affected:** None.

**Contact:** Toni Klimek, State Records Administration Team Lead, at 602-417-9364.

Signed by:  
Helen M. Hankins  
FOR James G. Kenna  
State Director

Authenticated by:  
Margaret Walker  
Division Management Assistant

1 Attachment:

1 - [Form AZ-1872-1, Litigation Hold -  
Records Inventory Report](#) (2 pp)

