

Travel Management Planning

Programmatic Agreement

Wednesday, 3 May 2017, 10:00 a.m. (Arizona Time); 1:00 p.m. (EDT)

Minutes

Attendees

Bret Axlund (Coconino County Sheriff's Office),
Hal Barton (Mohave County),
Matt Basham (BLM)
Larry Benallie (Gila River Indian Community),
Cheryl Blanchard (BLM),
Eben Bratcher (Yuma County Sheriff's Office),
Nancy Brown (ACHP),
Bernadette Carra (Ak-Chin Indian Community of the Maricopa Indian Reservation),
Jami Clark,
Steve Daron (Lake Mead NRA),
Sean Donnelly,
Matthew Driscoll (BLM),
Paul Esparza (Cochise County),
Bruce Fuller (Arizona Sun Riders),
Reba Grandrud (Old Spanish Trail Association),
Bruce Greco (Apache County),
John Hiscock (Old Spanish Trail Association),
Anne Howard (Arizona State Historic Preservation Office),
Andy Laurenzi (Archaeology Southwest),
Richard Lunt (Greenlee County),
Dan McGrew (BLM),
Christopher McLaughlin (BLM),
Leslie Mead (BLM),
Amy and William Mihailov (Mesa 4 Wheelers),
Jeremy Palmer (Mohave County),
Kris Powell (Arizona State Historic Preservation Office),
Kim Ryan (BLM),
J.C. Sanders (Bouse Ghost Riders),
Jon Shumaker (AZ Game & Fish),
Pam Steffen (Friends of AZ Joshua Tree Forest), Kent Taylor (Pinal County),
Douglas True (American Lands Access Association),
Brian Turner (National Trust for Historic Preservation),
Dana Warnecke (Arizona Game & Fish),
BriAnna Weldon (Juan Bautista de Anza National Historic Trail),
Reylynne Williams (Gila River Indian Community),

Leslie Mead began the meeting with a roll call of the web-based and phone based participants. Then requested any comments on the minutes from the kick-off meetings (March 8, 16, and 18) which were emailed to consulting parties on 21 March. No comments were added. Leslie reported that all

submitted comments on the rough draft of the outline, mailed to consulting parties on 21 March, were incorporated without change or comment. The most recent version of the outline which is available online at the Travel Management Programmatic Agreement web page.

<https://www.blm.gov/programs/planning-and-nepa/plans-in-development/arizona/tmp-programmatic-agreement>

Copies will also be emailed to consulting parties. Consulting parties were reminded that this outline is still regarded as a flexible document and additional comments are welcome.

1) Discussion of “Effect”

Andy Laurenzi of Archaeology Southwest, who has an extensive background with Travel Management Planning and its interaction with cultural resources and the National Historic Preservation Act’s Section 106 process, began with a discussion of his organization’s view of the effect of travel management planning on cultural resources. He discussed the types of effect: direct, indirect, and cumulative. He also discussed the results of several studies conducted at Apache-Sitgreaves and Tonto National Forest. Andy requested that these studies and other documents be made available to the consulting parties by the BLM at the Travel Management Programmatic Agreement web page.

<https://www.archaeologysouthwest.org/pdf/HeritageSpecialistReport.pdf>

<https://www.archaeologysouthwest.org/pdf/Cultural-Resources-Specialist-Report-TMR-A-S.pdf>

Dana Warecki of Arizona Game and Fish asked how and if thresholds for determining the source of impacts/effects would be included in the Programmatic Agreement.

Andy Laurenzi recommended that BLM consider development of a formal definition of “effect” which would address access related issues and non-direct damage (e.g. graffiti/vandalism, erosional).

Nancy Brown (ACHP) recommended consideration of other indirect effects, for example noise resulting from opening areas to ATV traction.

John Hiscock (Old Spanish Trail Association) requested some clarification on the relationship of the programmatic agreement to the National Trails System Act and the National Environmental Policy Act.

This was followed by discussion of the definition of indirect effects and the associated language of “actions which are reasonably foreseeable” and the difference between cumulative and indirect effects.

Matt Basham (BLM-Arizona State Office), Nancy Brown and Ann Howard (AZ SHPO) raised the point that it was important to get language into the Programmatic Agreement which would establish processes which would define the BLM’s obligations during the implementation of travel management planning, specifically defining processes to manage and mitigate adverse effects.

Anne Howard (AZ SHPO) expressed her concern that the original draft of the outline for the Programmatic Agreement did not contain a section in the stipulations for resolution of adverse effects.

Dana Warecki (Arizona Game and Fish) requested clarification on how BLM was going to define the root cause of effects in the Programmatic Agreement and used the example of how effects associated with grazing operations may effect routes subject to Travel Management Planning.

Kim Ryan (BLM-Tucson Field Office) and Matt Basham provided a briefing to the consulting parties regarding the BLM procedures used to identify of effects, define the cause of the effect, and address/resolve the effect(s) identified.

Andy Laurenzi (Archaeology Southwest) expressed his concern regarding open routes with minimal/no physical constraints or definition. He suggested that this could give the impression that passage outside of the boundaries of the road was acceptable.

Richard Lunt (Greenlee County) expressed his concern regarding the focus of the discussion being primarily on mitigation of disturbances to historical sites and losing track of the importance of remembering access to public lands is for everyone.

Doug True (American Lands Access Association) asked for the definition of an archaeological site. Matt Basham provided a summary of the definition that is currently used by the BLM and referred the consulting parties to the pdf document housed at the Arizona State Museum website. [Arizona State Museum site definition policy.](#)

2) Discussion of “Area of Potential Effect”

Andy Laurenzi was asked to initiate this part of the discussion with an expansion on his comments earlier regarding the ¼ and ½ mile zone of looting that was discussed in the studies completed for the Forest Service and BLM.

Matt Basham asked about the issue of differentiating between inadvertent as opposed to malicious damage (e.g. looting, vandalism). Andy clarified that he was speaking about intentional damage.

Dana Warecki asked if there would a formal methodology for defining the Area of Potential Effect included in the language of the Programmatic Agreement based on the root causes of the effect.

Ann Howard observed that regardless of the cause of the adverse effect, the BLM is responsible for mitigating those effects and noted the original outline did not included a section on resolving adverse effects. Leslie Mead noted that this would be added to the current draft of the outline.

There was some discussion of the Area of Potential Effect for direct effects as opposed to that for indirect or cumulative effects.

Leslie Mead (BLM-Arizona State Office) brought up the BLM policy which allows access to the area within 100 feet of the center line of a route open to motorized travel, for the purposes of safety, vehicular emergency and camping. Andy Laurenzi clarified that the route and the 100 feet on either side of the centerline would be considered the area of direct effects and emphasized the importance of

consideration of indirect effects in Travel Management Planning. Matt Basham discussed some of the options available to management for restricting access to just the boundaries of the route in cases where travel outside of this area would threaten cultural, natural or other types of resources.

J.C. Sanders of the Bouse Ghost Riders pointed out that mitigation can also include education and signage.

Andy Laurenzi expressed his feeling that the Programmatic Agreement needs to include language that adequately assesses the indirect effects.

Brian Turner of the National Trust for Historic Preservation added his voice to Andy Laurenzi on the importance of including language in the Programmatic Agreement that would adequately address reasonable foreseeable impacts, particularly in the case of indirect effects.

Leslie Mead queried Andy and Brian about the possibility of their developing some language that specifically outlined their vision of Area of Potential Effect as it relates to indirect and cumulative effects.

J.C. Sanders expressed some concern that the Area of Potential Effect not be expanded to a point as to render it impossible for any assessment of the project area to be realistically completed by the BLM. There was some discussion as the area under consideration with several figures noted. Andy Laurenzi noted his organization's concern that assessment of the Area of Potential Effect be targeted to focus on areas and resources of importance.

Nancy Brown pointed out that the Area of Potential Effects for direct, indirect, and cumulative effects could be different.

Dan McGrew requested examples of projects that had taken the route of defining different Areas of Potential Effect for levels of effects. It was agreed that examples of Programmatic Agreements that had taken this route would be provided to the consulting parties by the BLM either on the Travel Management Programmatic Agreement web page or via email.

Numerous documents of this type are available at the ACHP web site:
www.achp.gov/agreementdocs.html.

Links to some of those mentioned in the meeting are listed below.

SunZia Transmission Line Project

<http://www.achp.gov/docs/az-nm.blm.sunzia%20transmission%20line%20project.pa.dec14.pdf>

TransWest Express Transmission Line Project

https://eplanning.blm.gov/epl-front-office/projects/nepa/65198/92792/111801/AppE_TWEFinalPA.pdf

Dana Warecki asked if the Programmatic Agreement would include language that would address the question of what types of evaluation methods would be used.

Kris Powell (AZ SHPO) requested further discussions, off-line if necessary, take place regarding definition of methods of identification and evaluation.

3) Calendar –

Leslie Mead said the tentative schedule for the development of the Programmatic Agreement was sent out to the consulting parties on 21 March. It was emphasized that this schedule is tentative and, like the outline, much of the contents should be considered placeholders. Consulting parties should feel free to recommend changes.

Leslie explained that BLM would like to move forward with the understanding that the revised outline is flexible and should be regarded as a skeleton onto which meat could be added, taken off, moved about or otherwise changed as consultation proceeds. The BLM would very much like to begin first/rough drafts of some of the language of the Programmatic Agreement's less controversial initial clauses with the understanding that extensive changes/revisions were likely.

Kris Powell expressed concern that the schedule would be tight for June, as her schedule is fully booked. She and Ann Howard expressed concern that they had not been given adequate opportunity to comment on the revised outline.

Nancy Brown said the ACHP found the calendar acceptable and would like to see forward movement with the understanding that flexibility was expected.

Ann Howard noted that the SHPO's office had already recommended extensive changes and strongly recommended that BLM remain flexible.

The question of the involvement of Native American consultants and the progress of that process was not clear of the AZ SHPO. Leslie Mead explained that federally recognized Native American tribes had been notified. The tribes had received copies of all documents provided to the consulting parties. Tribal representatives and cultural resource professionals were notified of, individually invited to, and welcome at, all of the meetings of consulting parties. Because Government-to-Government consultation requires the presence of BLM line management, the meetings with the tribal leadership were being coordinated separately and currently logistics for two separate meetings were being worked out.

The meeting was closed with a thank you all participating consulting parties and a verbal summary of the information to be provided to the consulting parties as a result of the meeting.

OUTLINE: Travel Management Programmatic Agreement Version 1.1

TITLE:

PROGRAMMATIC AGREEMENT AMONG THE ADVISORY COUNCIL FOR HISTORIC PRESERVATION, THE BUREAU OF LAND MANAGEMENT-ARIZONA, ARIZONA HISTORIC PRESERVATION OFFICE, AND CALIFORNIA OFFICE OF HISTORIC PRESERVATION FOR ENVIRONMENTAL IMPACT STATEMENTS/ENVIRONMENTAL ASSESSMENTS ASSOCIATED WITH TRAVEL MANAGEMENT PLANNING BY THE BLM-ARIZONA

PREAMBLE

- 1) Undertaking Description
- 2) Description of Area of Potential Effect (APE) (specifying all land jurisdictions)
- 3) Effect language
 - a) General language, specifics will be in Stipulation (1).
- 4) Statutory Authority-Purpose, regulatory source language and citation for PA
 - a) Authority (NHPA and 36 CFR 800)
 - i) BLM's regulatory authorization & leadership role
 - ii) TMP's regulatory authorization
 - iii) SHPOs regulatory authority
 - iv) ACHP regulatory authority and election to participate
 - (1) reference the PA & 36CFR800.6(a)(1)(c), AZ SPA sections
- 5) Introduction of Signatories and Invited Signatories
- 6) Relationship to National PA and existing Tribal agreements
 - a) Relationship/applicability of TMP PA re: National PA, State Protocols Agreements, Tribal agreements.
 - b) Does not supersede language, etc.
- 7) Tribes notified & Tribes participating
- 8) Explication of Tribal rights as per NHPA, AIRFA, NAGPRA, EO 13007, 13175
- 9) Continuing nature of consultation
- 10) Nature and extent of state government agencies/entities notified
- 11) Nature and extent of local government agencies/entities notified
- 12) Nature and extent of private recreation/conservation/preservation organizations and individuals notified
- 13) Definitions: "Consulting Parties", "Signatories," "Invited Signatories," "Concurring Party," and other terminology used in the PA
- 14) Conclusion ("THEREFORE")

STIPULATIONS

- 1) Project Description
- 2) Area of Potential Effects
 - a) Also includes language to provide guidance/agreement on APE's for both BLM staff/contractors doing the on-the-ground, with specific reference to defining agreed upon direct, indirect and cumulative effects
- 3) Identification & Evaluation
 - a) BLM will make reasonable and good faith efforts to identify cultural resources located with the APE. (36 CFR 60.4)
 - b) Approach to Identification–
 - i) Sampling Strategies and recordation methods for TCPs and other classes of historic properties that extend outside the APE
 - ii) Evaluation
 - iii) TCPs
- 4) Assessment of Effects
 - a) Reference: 36 CFR 800.4(d) and for AE 36 CFR 800.5(a)(1) and (2)i-vii
 - b) Standards for effects assessment: direct, indirect, cumulative
- 5) Consultation Process
 - a) Provision for language re: thresholds for SHPO consultation in AZ/CA State protocols.
 - b) Reports (documentation, review and comment process, and timelines)
- 6) Tribal Consultation
 - a) BLM requests knowledge exchange in identifying: traditional properties, historic properties, locations of cultural significance
 - b) Definition of BLM obligations under consultation specific to this PA, if any
 - c) Definition of Tribal POC's for the purposes of this PA (if a list – add to Appendix)
 - d) Continuing nature of gov. to gov. consultation throughout the life of PA.
 - i) Include. Language re: consultation during identification & evaluation phases and throughout the process
- 7) Resolving Adverse Effects
- 8) Inadvertent Discoveries
- 9) Confidentiality
- 10) Curation
- 11) Public Participation
- 12) Professional Qualifications
- 13) Administrative
 - a) Stipulations governing continuance of consultation during implementation of PA
 - b) Dispute Resolution
 - c) Anti-deficiency Act
- 14) Amendment and/or Termination of Agreement

- a) Duration
- 15) Counterpart Signatures
- 16) Annual Meeting/Annual Reports