

## **BLM Preservation Board Report**

June 7-10, 2011  
Tucson, Arizona

In attendance: Bureau of Land Management (BLM) Preservation Officer Robin Burgess (WO), Deputy Preservation Officers (DPO) Robert King (AK), Michael Johnson (AZ), Fredrick Halford (ID), Gary Smith (MT), Tom Burke (NV), Signa Larralde (NM), Stan McDonald (OR), Byron Loosle (UT), and Ranel Capron (WY), Field Managers Tim Smith (CA), Beth Maclean (AK), and Will Runnoe (ID), District Manager Chris McAlear (NV), and field office (FO) Specialists Diana Hawks (AZ) and G. L. "Buck" Damone (WY). Members Charlotte Hunter (CA), Dan Haas (CO), and Christopher Cook (Eastern States) were unable to attend.

Additional BLM attendees were Maria Troche (AZ), who took notes and assisted with logistics, and Derrick Baldwin (CO). Attending in person from outside the BLM, was James Garrison, Arizona State Historic Preservation Officer.

In attendance by conference phone for selected sessions: Richard Hanes, Emily Palus, and Jerry Cordova, BLM WO-240, Linda Resseguie and Stephen Fosberg, BLM WO350, Nancy Brown, Advisory Council on Historic Preservation (ACHP), Alice Baldrice, National Conference of State Historic Preservation Officers (NCSHPO), Veronica Larvie, Department of the Interior, Office of the Solicitor (SOL), Tamara Whitley (CA), and Britta Nelson (WO-171).

### **Welcome**

The Board was welcomed to Tucson by Michael Johnson, DPO for Arizona. Michael introduced special guest James Garrison, Arizona State Historic Preservation Officer.

### **Arizona State Historic Preservation Office**

James Garrison presented on his vision for historic preservation, including what makes for a successful program and how to face the challenges of the future. In his presentation, "Government's role in Historic Preservation," he discussed how to maximize the "rate of return." He distinguished between "influence," ("Will you do this?"), "programs," (Can we help you?) and "legislative mandates" ("You must do this."). He emphasized the importance of "influence" through public education, site stewards, professional training, and "programs," such as grants, incentives, and tax credits. In contrast, legislation, including Section 106 of the National Historic Preservation Act (NHPA), mandates certain behaviors. He discussed the goals of the Preservation Plan for Arizona, which are geared to effectively manage historical resources and attain an informed and supportive constituency. He also noted the challenges and achievements of the Arizona program. Mr. Garrison described the role of the National Center for Preservation Technology and Training (NCPTT) and explained how Board members can request NCPTT assistance and apply for grants. Mr. Garrison thanked the BLM for its assistance through the Cultural Resources Data Sharing Partnership (CRDSP). He noted the often overlooked participation of tribes in the development of the BLM 1997 national programmatic agreement (PA) and said that the BLM and Arizona SHPO had signed the first BLM-SHPO protocol under the PA. The Arizona SHPO has a good working relationship with the BLM based on the BLM Arizona track record Arizona and is revising the protocol.

### **Historic Preservation Update**

For the benefit of the new members, Robin summarized BLM's outreach to tribes on BLM tribal consultation policy and practice, and the status of the current process for revising the PA. At this time the document has been reviewed by DOI solicitors and returned to the BLM to complete the surname process.

The Board had questions regarding the next steps toward execution of the revised PA. If the WO requests additional tribal consultation, the Board predicted diminishing returns and requested that our co-signatories provide clear criteria for demonstrating completion.

### **Cultural Resources Data Sharing Partnership update**

Kirk Halford, DPO for Idaho and National Coordinator for the CRDSP, reported on the CRDSP program. The CRDSP is a cooperative partnership with the BLM and individual SHPOs on cultural resource data

management. The BLM WO has funded this data sharing partnership at \$4.5 million over 13 years. The CRDSP holds quarterly conference calls and meets in person once a year. Each BLM state and each SHPO have a data representative on the committee.

Kirk will transition out of his coordinator role by October 1. The new National Data Coordinator for Heritage Programs will be Dr. Cynthia Herhahn, Cultural Resources Program Lead and District Archaeologist, Rio Puerco Office, NM. One of her challenges will be to engage with the rest of the BLM Geographic Information Systems community. Another will be to help states meet their three and five year goals, which are posted on the CRDSP web site. The National Coordinator role is supported by the WO-240 as a part-time position, but could easily be a full-time job.

The CRDSP did a national roll-up of site location data and is reviewing the results of that exercise. A total of 650,000 archaeological resources and 400,000 surveyed spaces are represented, and Arizona is the role model for usable data. CRDSP is working on revisions to Manual Sections 8110 and 8150 to reflect new standards and practices in digital data management. Most SHPOs still only collect point or isolate data, but today digitizing data in polygon form and shape file formats is crucial and saves time, money, and resources.

### **WO-240 Update and BLM FY2011 Priorities**

WO-240 Deputy Division Chief Emily Palus gave an update on the BLM Cultural Heritage Program budget. For Fiscal Year (FY) 2011 Budget, Congress passed a one year continuing resolution. Funding for the Cultural Heritage Program is close to the allocations proposed in the FY 2011 President's Budget Justification.

The President's Budget for FY 2012 budget includes an increase to cultural programs under the America's Great Outdoors (AGO) initiative. Increases were also proposed for the Recreation and NLCS programs under the AGO. The FY 2012 Planning Target Allocation (PTA) was issued to the states on May 16, and feedback requested by July 17 and August 15. Emily will be hosting a conference call on heritage program budget issues, including the FY 2012 PTA, on June 23.

WO-240 Division Chief Richard Hanes then briefed the Board on personnel changes and the status of the Department of the Interior (DOI) draft tribal consultation policy. In addition to the selection of Dr. Cynthia Herhahn selected for the National Data Coordinator role, WO-240 has selected Leslie Courtright of the Zion National Park as the new Museum Curator, supporting Emily's continued National Curator role that is part of her Senior Heritage Program Analyst position. In response to questions, Richard also explained that since WO-240 includes the tribal consultation program. Jerry Cordova and Richard commonly address issues beyond the normal scope of historic preservation for which the DPOs and other division staff do not have responsibilities. For example, Richard was the senior staff person supporting Deputy Director Marcilynn Burke on the DOI tribal consultation policy work group which addressed a broad range of tribal concerns. Richard briefed the BLM Associate State Directors and shared the material on the DOI consultation principles with the Board. WO-240 will be recommending that the PA be considered a key component of the BLM's implementation strategy and that leadership strongly emphasize the responsibility of managers for government-to-government consultation. Richard said that the Director had been scheduled to brief the Executive Leadership Team (ELT) this week but the ELT will now be briefed the week of June 20.

### **Conventional Energy Development, National Historic Preservation Act Section 106 and Tribal Consultation: Lessons Learned from Buffalo Field Office, Wyoming.**

Buck Damone and Ranel Capron gave a presentation on the results of an analysis of recent inventory data from cultural resources consultants performing cultural resources Class III inventories for development of methane wells and coal, mostly on private surface. Buffalo Field Office has responsibility for 3,000 to 4,000 undertakings a year and about 40% of the United States coal production. Most projects are submitted as Plans of Development of up to 100 wells, pipelines, and compressors rather than single well pads, and most sites are avoided. From 2000 to 2009, Buffalo approved 12,520 CBM wells and leased 32,632 acres of coal lands. Operators submitted block Class III inventories, as supported by policy, over 95% of inventory and site data was digitized, and the field office held bi-monthly meetings to inform cultural resources use permit holders of new policy and promote consistency. However, a recent analysis of inventory results performed by the BLM at the request of the SHPO indicates significant variation in site density data that can only be explained by extreme variability in consultant performance.

Generally the footprint of wells is inventoried, but the predominance of private surface makes it difficult to field check/monitor consultant performance. Buffalo recently denied (and later reissued) one permit and suspended another. Buffalo is now re-evaluating the value of block inventory where there are insufficient resources to provide sufficient oversight of permittee performance. One alternative is for the BLM to request

cost recovery for performing Section 106 related inventory in-house whenever possible. Buffalo will also re-evaluate the adequacy of previous inventory for future compliance.

### **Recreation and National Historic Preservation Act: Travel Management**

Diana Hawks and Byron Loosle gave a presentation on the need for policy on compliance with Section 106 for travel route designation, to replace expired IM 2007-030, Clarification of Cultural Resource Considerations for Off-Highway Vehicle (OHV) Designation and Travel Management. Veronica Larvie, SOL, joined by phone.

Diana's PowerPoint, "Cultural Resource Considerations for BLM Travel Decisions," addressed the need for a practical strategy for considering impacts to cultural resources during travel management planning and area and route designations. At an estimated \$35-50 an acre, a Class III inventory on all 8,000 miles of Arizona Strip routes would cost over \$1.2 million and 6,080 person days. The Arizona Strip Field Office analyzed areas where it anticipated large number of sites and they did not designate routes in areas where sites were expected, consistent with the priorities established by WO IM 2007-030.

The Board noted that completing SHPO consultation on our resource identification strategy is usually is the key to withstanding challenges on the BLM's level of effort.

**ACTION ITEM:** Diana will propose updates to IM 2007-030 and send to the Board for review.

### **Recreation and NHPA: Metal Detection and Treasure Trove**

Signa Larralde asked the Board to re-energize the development public education materials on metal detection. She said the Split Estate and Cultural Resources brochure has been very useful and she would like a similar format for metal detecting. There are numerous requests for public information on BLM policy on these activities, and Dan Haas previously led a work group that assembled existing policy and educational information, and determined that an educational brochure would be more feasible than policy revision. The Board suggested we include treasure trove and Tom suggested that we also work with Lucy Kuizon to include meteorite collection. Bob said the Alaska brochure on "Fossil Collecting and Artifact Hunting in Alaska" could be a useful model and that he will scan and send it to the group.

**ACTION ITEM:** Signa, Dan, and Will Runnoe will work on development of a brochure for the public in consultation with Lucy Kuizon.

### **Carrizo Plain National Historic Landmark Designation**

Tim Smith and Tamara Whitley of the Bakersfield Field Office gave a PowerPoint presentation on the Carrizo Plain National Historic Landmark (NHL) designation. The property was evaluated by the Landmarks Committee of the National Park System Advisory Board at their meeting last month. The designation of the CPNM has support from Chumash tribe and other agency partners. The Committee made a motion to recommend to the NPS Advisory Board that the Secretary designate the site. The next step is for the National Register staff to present Carrizo to the Advisory Board at their November meeting. The Bakersfield Office has an active and successful recordation and site steward program and Tammy will share her rock art recordation standards with the Board.

Kirk Halford noted that the CA Site Steward Program also has an excellent training program, including advanced classes in Geographic Positioning Systems and Geographic Information Systems, for volunteer stewards who monitor archaeological sites. They are interested in expanding this program to other states and Kirk can provide contact information. Mike Johnson noted that the Arizona Site Steward program was the earliest and is the largest of its kind. Ranel proposed that we develop an Information Bulletin encouraging steward programs and providing sources of information.

**ACTION ITEM:** Robin will initiate development of an Information Bulletin that provides a tool kit and resources on site steward programs, including the programs in Arizona and California. The California program is seeking to expand to other states.

### **Solar Programmatic Environmental Statement update and next steps**

Linda Resseguie and Stephen Fosberg, former DPO for New Mexico, gave an update on the Solar Programmatic Environmental Impact Statement (PEIS) and discuss the proposed next steps. Linda provided a status for the PEIS and answered questions. Three alternatives are being considered through the PEIS:

§ A no action alternative that continues the issuance of right-of-way authorizations for utility-scale solar energy development on a case-by-case basis in accordance with existing policies.

§ A solar energy development program alternative that applies new policies and design features for utility-scale solar energy development to a subset of BLM-administered lands that would be available for right-of-way application. Within the available lands, the BLM would identify 24 Solar Energy Zones (SEZ) as areas where the BLM would prioritize development. The new program would be implemented through land use plan amendments.

§ A SEZ program alternative that applies the same new policies and design features to utility-scale solar energy development but restricts applications exclusively to SEZs. The new program would be implemented through land use plan amendments.

The comment period for the Solar PEIS closed May 2. There were 80,000 comments of which 78,000 are largely duplicative. Comments will be posted at: <http://solareis.anl.gov>. Signature of the Record of Decision is scheduled for September 2013.

Steven Fosberg, former DPO for New Mexico and now the BLM Solar Archeologist, proposed a strategy for completing the section 106 and tribal consultation for the PEIS and proposed solar programmatic agreement (SPA). He handed out a draft Question and Answer document he has developed to facilitate the process and asked for the Board's comments. Stephen also proposed developing supplements to the SPA to make section 106 and tribal consultation easier for future project applications. Stephen asked that the 6 DPOs in the affected states form a working group or groups to develop the supplements. The Board asked if the supplements would be consistent with the new DOI tribal consultation policy. Robin suggested that Linda and Stephen coordinate with the SOL before launching work on the proposed supplements. Nancy Brown emphasized the importance of developing any fundamental changes/additions in time to consult with tribes and other parties such as the National Trust for Historic Preservation. Michael suggested that the supplement emphasize the distinction between what may be accomplished through staff-to-staff meetings as opposed to government-to-government consultation involving line managers and tribal leadership.

### **Renewable Energy Development, NHPA 106 and tribal consultation: What's working and how can we make it better?**

Richard Hanes led a discussion with Nancy Brown on the FY11 priority projects and emphasized the attention that the DOI and the BLM leadership are giving to tribal consultation and Section 106. The DOI and the BLM held a meeting focused specifically on tribal consultation for renewable energy priority projects and the BLM modified its tracking sheets to include the status of these requirements. Deputy Director Marcilynn Burke has asked that states elevate any potential problems in meeting timelines. Second, Richard mentioned that California DPO Charlotte Hunter is looking for ideas on mitigating cumulative effects. Richard mentioned off-site mitigation examples such as including protection of other sensitive areas through planning designations such as Areas of Critical Environmental Concern and land acquisition, and asked for other ideas. Richard also mentioned the Southwest Renewable Energy Working Group being formed by the ACHP in conjunction with the BLM. Deputy Director Marcilynn Burke suggested topics to the ACHP in a briefing at their May Quarterly Business Meeting.

Byron commented that visual impacts have been a key concern of tribes and recommended that we work with Visual Resources Management (VRM) program manager, John McCarty, to incorporate a "sense of place" into the Visual Resources Management (VRM) inventory process. Nancy Brown said that the ACHP is preparing guidance on visual effects. Diana recommended the VRM Training class and Robin volunteered a BLM person for the ACHP workgroup.

Signa requested guidance on when to require an ethnographic study and how to determine cost. Mike volunteered to send the Board his working draft on criteria for requesting ethnographic studies. Robin noted that the Tribal Liaisons are in the process of developing a standard statement of work (SOW). The Board expressed interest in an opportunity to review and comment on the SOW before it goes final.

**ACTION ITEM:** Byron, Signa, Ranel, Kirk, Beth, and Tim volunteered to work with VRP program lead John McCarthy on refining the use of sensitivity criteria to better adapt VRM to include tribal concerns. Byron will invite Rob Sweeten and Robin suggested we invite Kate Winthrop to participate.

### **Programmatic Agreement (PA) next steps: DOI Tribal Consultation Policy step down to the PA**

Richard Hanes and Jerry Cordova updated the Board on the status of the DOI tribal consultation policy, and Alice Baldrice and Nancy Brown joined by conference phone. The public comment period will end on July 8. The BLM plans to issue an IM that explains the core principles of the policy and describes the PA as one component of BLM's implementation strategy. The IM will include a template letter to tribes and a copy of

the draft revised PA. The IM will be shared in draft with the BLM Deputy State Directors and the Preservation Board.

Michael asked if the BLM was the only DOI agency sending the DOI policy and agency-specific implementation strategy to tribes. Richard said that each DOI agency would do separate mailing because each agency has a distinct mission, but that the DOI is assembling training opportunities to prepare for implementation. The Board expressed concern about tribes receiving duplicative mailings and recommended the DOI carry out a coordinated effort. Ranel also requested that WO-240 ensure that other Directorates and Divisions are engaged and ready to meet the new policy requirements at the State and Field Offices levels.

### **Update on National Landscape Conservation System Policy Development.**

Byron Loosle introduced Britta Nelson (WO-171), National Scenic and Historic Trails Manual Series Project Manager, who briefed the Board. Britta has incorporated the approximately 300 comments she received during the informal internal review and has prepared an IM to distribute the guidance for a formal 30 day internal review. Following the internal review the policy will be sent to the ACHP and NCSHPO. The next three proposed manual sections will be combined into a single section.

### **PA revision next steps: NEPA & 106**

Robin asked the Board to take a close look at the draft matrix she developed with BLM NEPA Lead Shannon Stewart for coordinating compliance with the National Environmental Policy Act (NEPA) and Section 106. Alice Baldrice and Nancy Brown joined by conference phone. The Board broke into work groups to focus on the major phases of the two compliance processes. The workgroups reported back to the group for discussion and proposed revision.

The Board, Alice and Nancy recommended several revisions:

§ Clarify that the matrix is not intended to combine the NEPA and Section 106 process or substitute one for the other. It is intended to explain how to coordinate the two processes, especially the information gathering in the initial phases.

§ Stress the importance of making explicit statements in NEPA meetings and documents explaining that the agency is using the NEPA process to gain information for use in both the Section 106 and NEPA compliance processes.

§ Insert the following language in the Tribal Consultation column for the Project Formulation phase: "Ensure that the project is included in government-to-government discussions, as well as ongoing staff to staff technical discussions".

§ Stress that NEPA and Section 106 result in two different end products (NEPA analysis documents vs. resolution of affects agreements).

§ Stress that written documentation of the tribal and public coordination and notifications must be included in the administrative record.

§ Consider using "agency official having jurisdiction" as functional way to determine scope of publics and consulting parties. Also keep this in mind for use in state protocols, way of maintaining local control over determination of naming consulting parties.

Tom Burke then discussed the timing of Section 106 and the completion of NEPA. He recommended that the 8100 Manual Section be more specific with respect to when Section 106 must be completed.

**ACTION ITEM:** Robin will make the recommended changes and prepare a draft IM on NEPA and Section 106 for the Board's review.

### **Cultural Resources permits and Tribal Consultation**

Tom Burke discussed his proposed changes to BLM manual section 8120 and 8150 to provide better direction on tribal consultation requirements for cultural resources permits, especially those issued under the Federal Land Policy and Management Act (FLPMA). Discussion indicated that there is variation in permitting practices under FLPMA and the Archaeological Resources Protection Act (ARPA) and that this topic merits further discussion with a goal of making any needed changes to existing policy. Tom noted that a policy change would require tribal consultation.

**ACTION ITEM:** Robin, Gary, Ranel, Michael, Stan, Buck and Tom agreed to reformulate the permitting work group and hold a conference call on this subject to consider the merits of more standardization across the BLM. Subjects of concern include the appropriate use of the various permitting authorities, contractor oversight, data standards, and the use of the DOI permitting forms.

## **Authority of the BLM manual sections and Handbook**

Stan McDonald gave the Board a short briefing on the relationship of statutes, regulations, BLM Manual Sections and Handbooks. All are mandatory, but legal challenges by outside parties must demonstrate that the BLM is not in compliance with statutes and regulations and not solely BLM Manual Sections and Handbooks. However, following the handbook/manual doesn't inevitably mean that all the requirements of the law have been met.

## **Homestead Act 150<sup>th</sup> Anniversary Commemoration & BLM History**

Bob King briefed the Board on progress with BLM's plans for commemorating the 150<sup>th</sup> anniversary of the signing by President Lincoln of the 1862 Homesteading Act in 2012, which coincides with other important anniversaries, including the 200<sup>th</sup> anniversary of the General Land Office, and the 100<sup>th</sup> anniversary of statehood for Arizona and New Mexico. He summarized progress in filming of certain BLM Homestead-related sites and Homestead history under a 2010 contract. This includes creation of five, five-minute video films on homestead-related resources in MT, ID, and NM, plus information about homesteading found in the Oregon Trail Center at Baker City, OR and the National Trail Center in Casper, WY. Five other five-minute video films narrated by Bob tell the history of Homesteading. These are designed for use as streaming video on BLM's upcoming National Homestead website and will be available for posting on state web sites. Bob has developed a prototype state homestead web site for Alaska, which he distributed, and is developing content for the other states to use on homestead websites for their states. The information includes statistics on homesteading in each state (number of homesteaders, how much land was homesteaded), the first and last homesteader for each state, information on National Register homestead properties, and links for those who are seeking other resources or information about homesteading in the various states where homesteading occurred. Bob encouraged each state to make use of these extensive resources to work on their own state homestead websites including adding news on upcoming state and local events to help spread the excitement for the national 150<sup>th</sup> anniversary event. The BLM's national website will highlight important facts and stories about the Homestead Act centered on its origin and place in history, the opportunities it gave Americans and those wanting to become Americans, and its legacy, including how it affects BLM's management of its lands today. The national website will be the master location for all homesteading laws and will provide links to other sites, including the various BLM state homestead sites, as well as provide an online illustrated timeline.

Bob requested pictures and stories related to homesteading and noted that he is continuing to compile additional homestead-related information that will be used for the BLM national website. He also asked Board members to distribute prepaid announcements on the Making of the Great Plains symposium on March 28-30, 2012 as supplied by the Homestead National Monument of America. Bob is organizing a BLM symposium for this event entitled: "Administering America's Homestead Laws, 1862 into the 21<sup>st</sup> Century: The Role of the General Land Office and the Bureau of Land Management." He encourages participation and will provide additional information. Megg Heath (WO-171) is organizing a BLM homestead symposium for the Society for American Archaeology annual meeting to be held in Memphis, TN on April 18-22, 2012. Bob also mentioned a third BLM symposium that may be held in Boulder and focus on the 200<sup>th</sup> anniversary of the General Land Office. Finally, Bob noted that the project to update BLM's history beyond the 1988 book "Opportunity and Challenge: The Story of BLM," by James Muhn and Hanson R. Stuart, was progressing. Hanson Stuart is again a principal writer with David Hunsaker (CO) the other key person for the project. Most States are coordinating this through their Offices of Communication/External Affairs, such as Alaska, and are providing new information either as newly written stories specifically for the book, or copies of previously done write-ups written for other purposes that can be adapted into the various chapters as sections or as sidebars. Bob has supplied information on homesteading.

## **Programmatic Agreement (PA) next steps: Consulting Parties**

Robin opened a discussion on the concept of developing agreements or protocols with potential consulting parties as part of the PA implementation strategy. The intent would be to increase consistency with the 36 CFR Part 800 by identifying potential consulting parties and agreeing to a programmatic approach to both sharing information on BLM projects and inviting their participation. The Board had questions regarding the BLM's ability to single out only some organizations for this purpose. It also had concerns regarding whether such an agreement would override the authority of line managers to make decisions on participation.

Michael suggested that any policy change on consulting parties should be in the PA. Generally the Board believes that managers need additional training on the role of consulting parties, that decisions on requests for consulting party status should continue to be handled at the local level on a case-by-case basis, but that the BLM should have a clear process and criteria for resolving complaints on this issue.

## **Update on Heritage Program training**

Bob King briefed the Board on the potential for another classroom offering of the 8100 Fundamentals class in FY12. The BLM Training Center hopes to offer it again and provide some travel assistance, with the latter contingent on BLM's FY 2012 budget. The Board also discussed the availability of manager training on the cultural heritage program. Will Runnoe said that a course on Native consultation for managers would be useful in light of the new D.O.I. policy on Native American consultation, and others agreed. Due to time and travel constraints, most managers expressed an interest in training being made available in their states, possibly in conjunction with other meetings. A format combining a satellite broadcast and manager-specific case studies or other classroom interaction would be effective. Distance learning options that require large blocks of uninterrupted time are problematic for managers. Bob briefly described proposal for a broadcast from the Washington Office in combination with protocol training to help implement the PA after execution. Chris McAlear volunteered to serve on the Training Committee.

## **Hands on the Land**

Derrick Baldwin, Cultural Heritage Program Specialist in the NLCS Education, Interpretation, and Partnerships Division, briefed the Board on Hands on the Land, a school partnerships program for Kindergarten through 12<sup>th</sup> Grade. BLM is a major supporter of this multi-agency "America's Largest Classroom" program that uses specific sites for activities that support school curricula and standards. The program has been in existence for several years but the DOI and the BLM are interested in re-energizing it and it may receive dedicated cultural resources funding. Derrick is working on an updated communications plan, including a newsletter, criteria for site nominations and a strategy for site interactivity. He encouraged Board members to nominate sites to the program.

## **Action Item Review:**

The Board reviewed the new Action items and Robin agreed to develop a draft Action Item list for the Board's review and approval.

**December 2011 and June 2012 Meeting:** The December meeting will be held December 6-9 in Washington, DC and Robin agreed to investigate the possibility of a White House tour and meeting in the new M Street office building. The BLM Montana State Office will host the June 7-10, 2012, meeting. Robin will schedule off-quarter conference calls and additional calls on specific subjects as needed. Options for the June 2013 meeting include Idaho, Colorado and Wyoming

**Field Trip:** The Arizona State Office and Chris Schragger of the BLM Tucson Field Office gave the Board a tour of the Murray Springs Clovis site, the Empire Ranch and Homestead in the Las Cienegas National Conservation Area, and the Fairbank Historic Town site in the San Pedro Riparian National Conservation Area.

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the AGO. The FY 2012 Planning Target Allocation (PTA) was issued to the states on May 16, and feedback requested by July 17 and August 15. Emily will be hosting a conference call on heritage program budget issues, including the FY 2012 PTA, on June 23.

WO-240 Division Chief Richard Hanes then briefed the Board on personnel changes and the status of the Department of the Interior (DOI) draft tribal consultation policy. In addition to the selection of Dr. Cynthia Herhahn selected for the National Data Coordinator role, WO-240 has selected Leslie Courtright of the Zion National Park as the new Museum Curator, supporting Emily's continued National Curator role that is part of her Senior Heritage Program Analyst position. In response to questions, Richard also explained that since WO-240 includes the tribal consultation program. Jerry Cordova and Richard commonly address issues beyond the normal scope of historic preservation for which the DPOs and other division staff do not have responsibilities. For example, Richard was the senior staff person supporting Deputy Director Marcilynn Burke on the DOI tribal consultation policy work group which addressed a broad range of tribal concerns. Richard briefed the BLM Associate State Directors and shared the material on the DOI consultation principles with the Board. WO-240 will be recommending that the PA be considered a key component of the BLM's implementation strategy and that leadership strongly emphasize the responsibility of managers for government-to-government consultation. Richard said that the Director had been scheduled to brief the Executive Leadership Team (ELT) this week but the ELT will now be briefed the week of June 20.

### **Conventional Energy Development, National Historic Preservation Act Section 106 and Tribal Consultation: Lessons Learned from Buffalo Field Office, Wyoming.**

Buck Damone and Ranel Capron gave a presentation on the results of an analysis of recent inventory data from cultural resources consultants performing cultural resources Class III inventories for development of methane wells and coal, mostly on private surface. Buffalo Field Office has responsibility for 3,000 to 4,000 undertakings a year and about 40% of the United States coal production. Most projects are submitted as Plans of Development of up to 100 wells, pipelines, and compressors rather than single well pads, and most sites are avoided. From 2000 to 2009, Buffalo approved 12,520 CBM wells and leased 32,632 acres of coal lands. Operators submitted block Class III inventories, as supported by policy, over 95% of inventory and site data was digitized, and the field office held bi-monthly meetings to inform cultural resources use permit holders of new policy and promote consistency. However, a recent analysis of inventory results performed by the BLM at the request of the SHPO indicates significant variation in site density data that can only be explained by extreme variability in consultant performance.

Generally the footprint of wells is inventoried, but the predominance of private surface makes it difficult to field check/monitor consultant performance. Buffalo recently denied (and later reissued) one permit and suspended another. Buffalo is now re-evaluating the value of block inventory where there are insufficient resources to provide sufficient oversight of permittee performance. One alternative is for the BLM to request cost recovery for performing Section 106 related inventory in-house whenever possible. Buffalo will also re-evaluate the adequacy of previous inventory for future compliance.

### **Recreation and National Historic Preservation Act: Travel Management**

Diana Hawks and Byron Loosle gave a presentation on the need for policy on compliance with Section 106 for travel route designation, to replace expired IM 2007-030, Clarification of Cultural Resource Considerations for Off-Highway Vehicle (OHV) Designation and Travel Management. Veronica Larvie, SOL, joined by phone.

Diana's PowerPoint, "Cultural Resource Considerations for BLM Travel Decisions," addressed the need for a practical strategy for considering impacts to cultural resources during travel management planning and area and route designations. At an estimated \$35-50 an acre, a Class III inventory on all 8,000 miles of Arizona Strip routes would cost over \$1.2 million and 6,080 person days. The Arizona Strip Field Office analyzed areas where it anticipated large number of sites and they did not designate routes in areas where sites were expected, consistent with the priorities established by WO IM 2007-030.

The Board noted that completing SHPO consultation on our resource identification strategy is usually is the key to withstanding challenges on the BLM's level of effort.

**ACTION ITEM:** Diana will propose updates to IM 2007-030 and send to the Board for review.

### **Recreation and NHPA: Metal Detection and Treasure Trove**

Signa Larralde asked the Board to re-energize the development public education materials on metal detection. She said the Split Estate and Cultural Resources brochure has been very useful and she would like a similar format for metal detecting. There are numerous requests for public information on BLM policy on

these activities, and Dan Haas previously led a work group that assembled existing policy and educational information, and determined that an educational brochure would be more feasible than policy revision. The Board suggested we include treasure trove and Tom suggested that we also work with Lucy Kuizon to include meteorite collection. Bob said the Alaska brochure on "Fossil Collecting and Artifact Hunting in Alaska" could be a useful model and that he will scan and send it to the group.

**ACTION ITEM:** Signa, Dan, and Will Runnoe will work on development of a brochure for the public in consultation with Lucy Kuizon.

### **Carrizo Plain National Historic Landmark Designation**

Tim Smith and Tamara Whitley of the Bakersfield Field Office gave a PowerPoint presentation on the Carrizo Plain National Historic Landmark (NHL) designation. The property was evaluated by the Landmarks Committee of the National Park System Advisory Board at their meeting last month. The designation of the CPNM has support from Chumash tribe and other agency partners. The Committee made a motion to recommend to the NPS Advisory Board that the Secretary designate the site. The next step is for the National Register staff to present Carrizo to the Advisory Board at their November meeting. The Bakersfield Office has an active and successful recordation and site steward program and Tammy will share her rock art recordation standards with the Board.

Kirk Halford noted that the CA Site Steward Program also has an excellent training program, including advanced classes in Geographic Positioning Systems and Geographic Information Systems, for volunteer stewards who monitor archaeological sites. They are interested in expanding this program to other states and Kirk can provide contact information. Mike Johnson noted that the Arizona Site Steward program was the earliest and is the largest of its kind. Ranel proposed that we develop an Information Bulletin encouraging steward programs and providing sources of information.

**ACTION ITEM:** Robin will initiate development of an Information Bulletin that provides a tool kit and resources on site steward programs, including the programs in Arizona and California. The California program is seeking to expand to other states.

### **Solar Programmatic Environmental Statement update and next steps**

Linda Resseguie and Stephen Fosberg, former DPO for New Mexico, gave an update on the Solar Programmatic Environmental Impact Statement (PEIS) and discuss the proposed next steps. Linda provided a status for the PEIS and answered questions. Three alternatives are being considered through the PEIS:

§ A no action alternative that continues the issuance of right-of-way authorizations for utility-scale solar energy development on a case-by-case basis in accordance with existing policies.

§ A solar energy development program alternative that applies new policies and design features for utility-scale solar energy development to a subset of BLM-administered lands that would be available for right-of-way application. Within the available lands, the BLM would identify 24 Solar Energy Zones (SEZ) as areas where the BLM would prioritize development. The new program would be implemented through land use plan amendments.

§ A SEZ program alternative that applies the same new policies and design features to utility-scale solar energy development but restricts applications exclusively to SEZs. The new program would be implemented through land use plan amendments.

The comment period for the Solar PEIS closed May 2. There were 80,000 comments of which 78,000 are largely duplicative. Comments will be posted at: <http://solareis.anl.gov>. Signature of the Record of Decision is scheduled for September 2013.

Steven Fosberg, former DPO for New Mexico and now the BLM Solar Archeologist, proposed a strategy for completing the section 106 and tribal consultation for the PEIS and proposed solar programmatic agreement (SPA). He handed out a draft Question and Answer document he has developed to facilitate the process and asked for the Board's comments. Stephen also proposed developing supplements to the SPA to make section 106 and tribal consultation easier for future project applications. Stephen asked that the 6 DPOs in the affected states form a working group or groups to develop the supplements. The Board asked if the supplements would be consistent with the new DOI tribal consultation policy. Robin suggested that Linda and Stephen coordinate with the SOL before launching work on the proposed supplements. Nancy Brown emphasized the importance of developing any fundamental changes/additions in time to consult with tribes and other parties such as the National Trust for Historic Preservation. Michael suggested that the supplement emphasize the distinction between what may be accomplished through staff-to-staff meetings as opposed to government-to-government consultation involving line managers and tribal leadership.

## **Renewable Energy Development, NHPA 106 and tribal consultation: What's working and how can we make it better?**

Richard Hanes led a discussion with Nancy Brown on the FY11 priority projects and emphasized the attention that the DOI and the BLM leadership are giving to tribal consultation and Section 106. The DOI and the BLM held a meeting focused specifically on tribal consultation for renewable energy priority projects and the BLM modified its tracking sheets to include the status of these requirements. Deputy Director Marcilynn Burke has asked that states elevate any potential problems in meeting timelines. Second, Richard mentioned that California DPO Charlotte Hunter is looking for ideas on mitigating cumulative effects. Richard mentioned off-site mitigation examples such as including protection of other sensitive areas through planning designations such as Areas of Critical Environmental Concern and land acquisition, and asked for other ideas. Richard also mentioned the Southwest Renewable Energy Working Group being formed by the ACHP in conjunction with the BLM. Deputy Director Marcilynn Burke suggested topics to the ACHP in a briefing at their May Quarterly Business Meeting.

Byron commented that visual impacts have been a key concern of tribes and recommended that we work with Visual Resources Management (VRM) program manager, John McCarty, to incorporate a "sense of place" into the Visual Resources Management (VRM) inventory process. Nancy Brown said that the ACHP is preparing guidance on visual effects. Diana recommended the VRM Training class and Robin volunteered a BLM a person for the ACHP workgroup.

Signa requested guidance on when to require an ethnographic study and how to determine cost. Mike volunteered to send the Board his working draft on criteria for requesting ethnographic studies. Robin noted that the Tribal Liaisons are in the process of developing a standard statement of work (SOW). The Board expressed interest in an opportunity to review and comment on the SOW before it goes final.

**ACTION ITEM:** Byron, Signa, Ranel, Kirk, Beth, and Tim volunteered to work with VRP program lead John McCarthy on refining the use of sensitivity criteria to better adapt VRM to include tribal concerns. Byron will invite Rob Sweeten and Robin suggested we invite Kate Winthrop to participate.

### **Programmatic Agreement (PA) next steps: DOI Tribal Consultation Policy step down to the PA**

Richard Hanes and Jerry Cordova updated the Board on the status of the DOI tribal consultation policy, and Alice Baldrice and Nancy Brown joined by conference phone. The public comment period will end on July 8. The BLM plans to issue an IM that explains the core principles of the policy and describes the PA as one component of BLM's implementation strategy. The IM will include a template letter to tribes and a copy of the draft revised PA. The IM will be shared in draft with the BLM Deputy State Directors and the Preservation Board.

Michael asked if the BLM was the only DOI agency sending the DOI policy and agency-specific implementation strategy to tribes. Richard said that each DOI agency would do separate mailing because each agency has a distinct mission, but that the DOI is assembling training opportunities to prepare for implementation. The Board expressed concern about tribes receiving duplicative mailings and recommended the DOI carry out a coordinated effort. Ranel also requested that WO-240 ensure that other Directorates and Divisions are engaged and ready to meet the new policy requirements at the State and Field Offices levels.

### **Update on National Landscape Conservation System Policy Development.**

Byron Loosle introduced Britta Nelson (WO-171), National Scenic and Historic Trails Manual Series Project Manager, who briefed the Board. Britta has incorporated the approximately 300 comments she received during the informal internal review and has prepared an IM to distribute the guidance for a formal 30 day internal review. Following the internal review the policy will be sent to the ACHP and NCSHPO. The next three proposed manual sections will be combined into a single section.

### **PA revision next steps: NEPA & 106**

Robin asked the Board to take a close look at the draft matrix she developed with BLM NEPA Lead Shannon Stewart for coordinating compliance with the National Environmental Policy Act (NEPA) and Section 106. Alice Baldrice and Nancy Brown joined by conference phone. The Board broke into work groups to focus on the major phases of the two compliance processes. The workgroups reported back to the group for discussion and proposed revision.

The Board, Alice and Nancy recommended several revisions:

§ Clarify that the matrix is not intended to combine the NEPA and Section 106 process or substitute one for the other. It is intended to explain how to coordinate the two processes, especially the information gathering in the initial phases.

§ Stress the importance of making explicit statements in NEPA meetings and documents explaining that the agency is using the NEPA process to gain information for use in both the Section 106 and NEPA compliance processes.

§ Insert the following language in the Tribal Consultation column for the Project Formulation phase: "Ensure that the project is included in government-to-government discussions, as well as ongoing staff to staff technical discussions".

§ Stress that NEPA and Section 106 result in two different end products (NEPA analysis documents vs. resolution of affects agreements).

§ Stress that written documentation of the tribal and public coordination and notifications must be included in the administrative record.

§ Consider using "agency official having jurisdiction" as functional way to determine scope of publics and consulting parties. Also keep this in mind for use in state protocols, way of maintaining local control over determination of naming consulting parties.

Tom Burke then discussed the timing of Section 106 and the completion of NEPA. He recommended that the 8100 Manual Section be more specific with respect to when Section 106 must be completed.

**ACTION ITEM:** Robin will make the recommended changes and prepare a draft IM on NEPA and Section 106 for the Board's review.

### **Cultural Resources permits and Tribal Consultation**

Tom Burke discussed his proposed changes to BLM manual section 8120 and 8150 to provide better direction on tribal consultation requirements for cultural resources permits, especially those issued under the Federal Land Policy and Management Act (FLPMA). Discussion indicated that there is variation in permitting practices under FLPMA and the Archaeological Resources Protection Act (ARPA) and that this topic merits further discussion with a goal of making any needed changes to existing policy. Tom noted that a policy change would require tribal consultation.

**ACTION ITEM:** Robin, Gary, Ranel, Michael, Stan, Buck and Tom agreed to reformulate the permitting work group and hold a conference call on this subject to consider the merits of more standardization across the BLM. Subjects of concern include the appropriate use of the various permitting authorities, contractor oversight, data standards, and the use of the DOI permitting forms.

### **Authority of the BLM manual sections and Handbook**

Stan McDonald gave the Board a short briefing on the relationship of statutes, regulations, BLM Manual Sections and Handbooks. All are mandatory, but legal challenges by outside parties must demonstrate that the BLM is not in compliance with statutes and regulations and not solely BLM Manual Sections and Handbooks. However, following the handbook/manual doesn't inevitably mean that all the requirements of the law have been met.

### **Homestead Act 150<sup>th</sup> Anniversary Commemoration & BLM History**

Bob King briefed the Board on progress with BLM's plans for commemorating the 150th anniversary of the signing by President Lincoln of the 1862 Homesteading Act in 2012, which coincides with other important anniversaries, including the 200th anniversary of the General Land Office, and the 100th anniversary of statehood for Arizona and New Mexico. He summarized progress in filming of certain BLM Homestead-related sites and Homestead history under a 2010 contract. This includes creation of five, five-minute video films on homestead-related resources in MT, ID, and NM, plus information about homesteading found in the Oregon Trail Center at Baker City, OR and the National Trail Center in Casper, WY. Five other five-minute video films narrated by Bob tell the history of Homesteading. These are designed for use as streaming video on BLM's upcoming National Homestead website and will be available for posting on state web sites. Bob has developed a prototype state homestead web site for Alaska, which he distributed, and is developing content for the other states to use on homestead websites for their states. The information includes statistics on homesteading in each state (number of homesteaders, how much land was homesteaded), the first and last homesteader for each state, information on National Register homestead properties, and links for those who are seeking other resources or information about homesteading in the various states where homesteading occurred. Bob encouraged each state to make use of these extensive resources to work on their own state homestead websites including adding news on upcoming state and local events to help spread the

excitement for the national 150<sup>th</sup> anniversary event. The BLM's national website will highlight important facts and stories about the Homestead Act centered on its origin and place in history, the opportunities it gave Americans and those wanting to become Americans, and its legacy, including how it affects BLM's management of its lands today. The national website will be the master location for all homesteading laws and will provide links to other sites, including the various BLM state homestead sites, as well as provide an online illustrated timeline.

Bob requested pictures and stories related to homesteading and noted that he is continuing to compile additional homestead-related information that will be used for the BLM national website. He also asked Board members to distribute prepaid announcements on the Making of the Great Plains symposium on March 28-30, 2012 as supplied by the Homestead National Monument of America. Bob is organizing a BLM symposium for this event entitled: "Administering America's Homestead Laws, 1862 into the 21<sup>st</sup> Century: The Role of the General Land Office and the Bureau of Land Management." He encourages participation and will provide additional information. Megg Heath (WO-171) is organizing a BLM homestead symposium for the Society for American Archaeology annual meeting to be held in Memphis, TN on April 18-22, 2012. Bob also mentioned a third BLM symposium that may be held in Boulder and focus on the 200<sup>th</sup> anniversary of the General Land Office. Finally, Bob noted that the project to update BLM's history beyond the 1988 book "Opportunity and Challenge: The Story of BLM," by James Muhn and Hanson R. Stuart, was progressing. Hanson Stuart is again a principal writer with David Hunsaker (CO) the other key person for the project. Most States are coordinating this through their Offices of Communication/External Affairs, such as Alaska, and are providing new information either as newly written stories specifically for the book, or copies of previously done write-ups written for other purposes that can be adapted into the various chapters as sections or as sidebars. Bob has supplied information on homesteading.

### **Programmatic Agreement (PA) next steps: Consulting Parties**

Robin opened a discussion on the concept of developing agreements or protocols with potential consulting parties as part of the PA implementation strategy. The intent would be to increase consistency with the 36 CFR Part 800 by identifying potential consulting parties and agreeing to a programmatic approach to both sharing information on BLM projects and inviting their participation. The Board had questions regarding the BLM's ability to single out only some organizations for this purpose. It also had concerns regarding whether such an agreement would override the authority of line managers to make decisions on participation.

Michael suggested that any policy change on consulting parties should be in the PA. Generally the Board believes that managers need additional training on the role of consulting parties, that decisions on requests for consulting party status should continue to be handled at the local level on a case-by-case basis, but that the BLM should have a clear process and criteria for resolving complaints on this issue.

### **Update on Heritage Program training**

Bob King briefed the Board on the potential for another classroom offering of the 8100 Fundamentals class in FY12. The BLM Training Center hopes to offer it again and provide some travel assistance, with the latter contingent on BLM's FY 2012 budget. The Board also discussed the availability of manager training on the cultural heritage program. Will Runnoe said that a course on Native consultation for managers would be useful in light of the new D.O.I. policy on Native American consultation, and others agreed. Due to time and travel constraints, most managers expressed an interest in training being made available in their states, possibly in conjunction with other meetings. A format combining a satellite broadcast and manager-specific case studies or other classroom interaction would be effective. Distance learning options that require large blocks of uninterrupted time are problematic for managers. Bob briefly described proposal for a broadcast from the Washington Office in combination with protocol training to help implement the PA after execution. Chris McAlear volunteered to serve on the Training Committee.

### **Hands on the Land**

Derrick Baldwin, Cultural Heritage Program Specialist in the NLCS Education, Interpretation, and Partnerships Division, briefed the Board on Hands on the Land, a school partnerships program for Kindergarten through 12<sup>th</sup> Grade. BLM is a major supporter of this multi-agency "America's Largest Classroom" program that uses specific sites for activities that support school curricula and standards. The program has been in existence for several years but the DOI and the BLM are interested in re-energizing it and it may receive dedicated cultural resources funding. Derrick is working on an updated communications plan, including a newsletter, criteria for site nominations and a strategy for site interactivity. He encouraged Board members to nominate sites to the program.

### **Action Item Review:**

The Board reviewed the new Action items and Robin agreed to develop a draft Action Item list for the Board's review and approval.

**December 2011 and June 2012 Meeting:** The December meeting will be held December 6-9 in Washington, DC and Robin agreed to investigate the possibility of a White House tour and meeting in the new M Street office building. The BLM Montana State Office will host the June 7-10, 2012, meeting. Robin will schedule off-quarter conference calls and additional calls on specific subjects as needed. Options for the June 2013 meeting include Idaho, Colorado and Wyoming

**Field Trip:** The Arizona State Office and Chris Schrager of the BLM Tucson Field Office gave the Board a tour of the Murray Springs Clovis site, the Empire Ranch and Homestead in the Las Cienegas National Conservation Area, and the Fairbank Historic Town site in the San Pedro Riparian National Conservation Area.