



# United States Department of the Interior



BUREAU OF LAND MANAGEMENT  
Idaho State Office  
1387 South Vinnell Way  
Boise, Idaho 83709-1657

In Reply Refer To:  
8160/1120 (912) P

May 13, 2015

EMS TRANSMISSION: 5/13/2015  
Instruction Memorandum No. 2015-032  
Expires: 09/30/2018

To: Idaho Leadership Team

From: Acting State Director

Subject: Managing Natural Resources Consistent with Treaty and Trust Responsibilities

**Program Area:** Tribal Relations

**Purpose:** This Instruction Memorandum has been developed to summarize guidance that has been provided previously and is being currently implemented throughout the Idaho Bureau of Land Management (BLM).

**Policy/Action:** The BLM is committed to fostering a positive working relationship with federally recognized American Indian Tribes and ensuring that the rights and interests of Tribes are considered and addressed in BLM decisions and planning processes, through Government-to-Government consultation.

As we review our workload and priorities, it is important to coordinate our programs of work with the responsibilities we have to affected American Indian Tribes.

The following is intended to remind all employees of areas in which this type of consideration is important:

Updating Land/Resource Management Plans: Managers should engage in Government-to-Government consultation with Tribal governments by involving Tribes in our planning and decision making processes. Management plans and our National Environmental Policy Act (NEPA) documents should reflect an understanding of the issues and opportunities forwarded by the Tribes and document how they are addressed. To honor the Federal trust responsibility and treaty obligations, NEPA documents will include a discussion of potential effects to the resources and lands associated with Tribal rights and interests. This information is critical not only to inform BLM managers and their resultant decisions, but to enable Tribes, in their review of our plans and actions, to make informed comments and recommendations.

Weed Management: We must work with Tribal governments to ensure our weed control efforts are coordinated just as we work with state and local governments. Tribal members use the lands we manage to gather plants for food, medicine, and spiritual purposes; sometimes gathering is also a treaty-reserved right on BLM-administered lands. Understanding tribal uses and how they relate to timing, location, and any proposed method of treatment is critical. There could be health considerations for Tribal members if we act without these discussions. Further, Tribes manage a considerable amount of land and it is appropriate that we work them toward a common goal through coordination of efforts and pooling limited resources.

Land Tenure Adjustments: Potentially affected Tribes must be consulted on land tenure allocations in our Resource Management Plans as well as potential land tenure adjustments. This should occur early in the land tenure adjustment planning process, so that resources/lands of critical importance to a Tribe, or associated with the reserved treaty rights held by that Tribe (winter range, traditional gathering area, cultural site), can be identified and given full consideration. Consultation with Tribal governments on land tenure adjustments are crucial, as typical market analyses may not include consideration of these types of key Tribal values.

Boundary Management: The BLM shares in the Federal trust responsibility including the surveying of boundaries of trust and other Tribal lands. There are many miles of public lands adjoining or intermingled with Tribal lands and it is necessary to properly identify the extent of public land to facilitate their management and protect the rights of the adjoining and Tribal landowners.

Fire Management: Our fire program has always included cooperation with the Bureau of Indian Affairs (BIA). As more Tribes take responsibility for programs once managed by the BIA, we must work with their governments both on and off the reservation. Fire management is one activity where cooperation is essential. Fire can be a powerful tool, especially when the goals have been cooperatively defined with land management partners, including area Tribes.

Recreation Fee Demonstration Projects/Additions: We must consult with affected Tribal Governments when we are considering areas for possible inclusion and/or examining existing area designations. Several Idaho Tribes have reserved treaty rights that they exercise on BLM-administered lands. Any proposed or existing fees must be discussed with respective Tribes so Tribal members are treated equitably when they exercise a reserved treaty right, such as hunting, fishing, gathering, and other activities (see attachment).

Cultural Resource Proposals/Projects: As federal land managers we have a federal trust and legal responsibility to preserve and protect cultural resources and sacred sites as defined by treaties and other laws and policies. These resources/sites are non-renewable and once lost are an irreplaceable part of tribal and human culture. In the case of human remains, we have agreed to share our conversation results with all parties working on a project to avoid damage. Proactive cooperative cultural resource projects involving interpretation of Idaho's indigenous cultures presents opportunities for the BLM to involve Tribes and produce unique benefits. Such projects can increase our understanding of past and present cultures, increase the public's awareness of the richness and complexity of a Tribe's history, and foster public awareness of a

Tribe's ancestral ties to public lands. For Tribes, interpreting cultural resources may provide opportunities to foster awareness of their contributions to the regional culture and society at large, and enhance the Tribe's sense of well-being. We need to continue to consider and capitalize on these efforts in the future. American Indian Tribes rely on Federal lands for many purposes: subsistence and traditional uses, economic benefits, socio-cultural activities, treaty uses, and spiritual/religious benefits. Tribes also manage significant land and resource holdings which contribute to overall ecosystem health and productivity. Tribal officials are governmental representatives and are important allies in natural resource management. As Federal land managers, working with our Tribal neighbors to address and balance our management responsibility with those of the Tribes should be our standard practice.

The Special Assistant, to the State Director for Tribal Liaison, the Chief Cadastral Surveyor, and the State Archaeologist will be available as resources to you, as we build and/or enhance our relationship with the Tribal governments in the region. Additionally, district managers have been identified as Points of Contact (POC) for arranging meetings with Idaho Tribal Councils/elected officials for the purpose of Government-to-Government consultation. The Idaho Falls District Manager is the POC for working with the Shoshone-Bannock Tribal Council. The Coeur d'Alene District Manager is the POC for the Nez Perce, Coeur d'Alene, and Kootenai Tribes in northern Idaho. The Twin Falls District Manager and the Boise District Manager, share the lead as POC with the Shoshone-Paiute Tribes.

I believe we have an invaluable partner in the American Indian Tribes in this state. As land stewards, we need to cultivate and capitalize on this partnership so that the resources and lands can benefit from our cooperative efforts.

**Timeframe:** Guidance is effective immediately.

**Background:** Numerous laws, treaties, executive orders, agreements, and associated policies and regulations define the obligations of BLM to federally recognized American Indian Tribes. In the last several years, the administration has also further emphasized the commitment to Government-to-Government communication and consultation with Tribes. Executive and Secretarial Orders provide strong language directing Federal agencies to consult with and involve American Indian Tribal governments to the maximum extent practicable in our planning and decision-making processes, as well as to engage them in cooperative efforts on numerous fronts. For example, refer to Executive Order (EO) 12898; Environmental Justice, EO 13007; Indian Sacred Sites, EO 13021; Tribal Colleges and Universities, Secretarial Order 3206; Tribes and the Endangered Species Act, and EO 13084; Consultation and Coordination with Indian Tribal Governments. Reference BLM Manual 8120 and H-8120-1 (to be superseded by Manual 1780 and H-1780-a); Native American Coordination and Consultation; 25 United States Code 176; Survey of Indian Lands shall be under the Direction and Control of BLM; 757 Departmental Manual 2.7B; BLM is the Lead Bureau for Public Land Survey System Administration; Washington Office Instruction Memorandum No. 2006-113; and Marking and Posting of BLM Property and Jurisdictional Boundaries.

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

**Coordination:** Cultural Archaeologist; Special Assistant, State Director; Deputy State Director (DSD) of Resources; Resources and Science Branch Chief; Chief, Cadastral Surveyor; and DSD for Support Services.

**Contact:** For questions regarding this action/guidance, contact Cheryle Cobell Zwang, Special Assistant, State Director, at (208) 373-4002.

**Boise District with Union:** Management is reminded to notify and satisfy any bargaining requirements prior to implementation.

Signed by:  
Jeffery L. Foss  
Acting State Director

Authenticated by:  
Kathy J. Mondor  
Executive Assistant

Attachment

[Treaty-Aboriginal Rights Related to Camping at BLM Recreation Sites and on Undeveloped Public Lands](#) (2 pp)