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## 7 CONSULTATION AND COORDINATION

### 7.1 PUBLIC SCOPING

An NOI to prepare a PEIS and possible land use plan amendments for allocation of oil shale and tar sands resources on lands administered by the BLM Colorado, Utah, and Wyoming was published in the *Federal Register* on April 14, 2011 (BLM 2011). The NOI articulated a preliminary purpose and need for the proposed action of amending land use plans, identified planning criteria, initiated the public scoping process, and invited interested members of the public to provide comments on the scope and objectives of the PEIS, including identification of issues and alternatives that should be considered in the PEIS analyses.

The public was provided with three methods for submitting scoping comments or suggestions on potential resource issues that should be discussed in the OSTIS PEIS and used to inform consultation activities:

- Via a public Web site,
- By mail, and
- In person at public scoping meetings.

Public scoping meetings were held at seven locations in April and May of 2011: Salt Lake City, Utah (April 26); Price, Utah (April 27); Vernal, Utah (April 28); Rock Springs, Wyoming (April 29); Rifle, Colorado (May 3); Denver, Colorado (May 4); and Cheyenne, Wyoming (May 5). Meetings were held at 1:00 p.m. and 7:00 p.m. at each location, and a court reporter recorded a transcript for each meeting. At each meeting, the BLM presented background information about the OSTIS PEIS and related activities. Presentation materials from these meetings, including slides, are available on the project Web site (<http://ostseis.anl.gov>).

Approximately 4,663 individuals, organizations, and governmental agencies provided comments or suggestions on the scope of the PEIS. Three of these comments were part of major campaigns; each campaign involved an e-mail attachment containing essentially the same letter for each individual submittal. In total, these campaigns represented an additional 23,860 commentors. Approximately 3,061 comment letters were submitted on line; 133 were submitted orally at scoping meetings; and 37 were submitted by mail. Comments were received from 5 state agency divisions (1 from Utah, 2 from Colorado, and 2 from Wyoming), 4 federal agency offices (1 from the NPS, 1 from the USFWS, 1 from the EPA, and 1 from the U.S. Congressional Task Force on Unconventional Fuels), 14 local government organizations (Colorado: Garfield, Mesa, Pitkin, and Rio Blanco Counties; City of Rifle; Towns of New Castle, Rangely, and Silt; Utah: Carbon and Uintah Counties; Wyoming: Board of Lincoln County Commissioners; Coalition of Local Governments; Rock Springs City Council; and Sweetwater County Board of Commissioners), and more than 80 other organizations (including environmental groups, interest groups, consulting firms, and industry).

1 More than 392 people registered their attendance at the public meetings in April and  
2 May 2011; 133 individuals in attendance provided oral or written comments, or both, during the  
3 meetings. Of the remaining scoping comments that were submitted, about 0.1% were submitted  
4 by mail and 99% were submitted online.

5  
6 Comments received by mail originated from 5 states and the District of Columbia.  
7 Approximately 4% of the comments originated from states outside the three-state study area. The  
8 comments that originated within the study area were distributed as follows: 81 comments from  
9 Colorado, 80 comments from Utah, and 14 comments from Wyoming.

10  
11 A summary of scoping comments is provided in Section J.3 of Appendix J of this  
12 document.

## 13 14 15 **7.2 GOVERNMENT-TO-GOVERNMENT CONSULTATION**

16  
17 The BLM works on a government-to-government basis with federally recognized Indian  
18 tribes. As a part of the government's "treaty and trust" responsibilities, the government-to-  
19 government relationship was reaffirmed by the federal government on May 14, 1998, with  
20 E.O. 13084 and was strengthened on November 6, 2000, with E.O. 13175 (U.S. President 1998,  
21 2000). DOI recently issued the *Department of the Interior Policy on Consultation with Indian*  
22 *Tribes* (DOI 2011). The BLM coordinates and consults with tribal governments, native  
23 communities, and tribal individuals whose interests might be directly and substantially affected  
24 by activities on public lands. It strives to provide the Indian tribes with sufficient opportunities  
25 for productive participation in BLM planning and resource management decision making. In  
26 addition, Section 106 of the NHPA requires federal agencies to consult with Indian tribes on  
27 undertakings on tribal lands and on historic properties of significance to the tribes that may be  
28 affected by an undertaking (36 CFR 800.2 (c)(2)). BLM Manual 8120 (BLM 2004a) and  
29 Handbook H-8120-1 (BLM 2004b) provide guidance for Native American consultations.

30  
31 The BLM developed a process to offer specific consultation opportunities to "directly and  
32 substantially affected" tribal entities, as required under the provisions of E.O. 13175 and to  
33 Indian tribes as defined under 36 CFR 800.2(c)(2). Starting in July 2011, federally recognized  
34 tribes that are located in or that have historical or cultural ties to the three-state study area were  
35 | contacted by mail by the BLM State Directors. Table 7.2-1 lists the ~~tribes~~ tribes and entities that were  
36 contacted by each state and describes the status of the ongoing consultations with each tribe. As  
37 of this writing, two tribes (the Hopi and Eastern Shoshone) and one Navajo Chapter (Navajo  
38 Mountain) have expressed an interest in consultation or involvement with the BLM for this  
39 project. Two tribes (the Pueblo of Santa Clara and the Paiute Indian Tribe of Utah) have  
40 indicated that further consultation is not needed. Interaction with the Ute Indian Tribe is ongoing.  
41 The remaining 12 tribes (Kaibab Paiute Tribe, Northern Arapaho Tribe, Northwestern Band of  
42 the Shoshone Nation, Pueblo of Laguna, Pueblo of Nambe, Pueblo of Zia, Pueblo of Zuni,  
43 San Juan Southern Paiute Tribe, Shoshone-Bannock Tribes, Southern Ute Tribe, Ute Mountain  
44 Ute Tribe, and White Mesa Band of Ute Mountain Ute Tribe) and 7 Navajo Chapters (Aneth,  
45 Dennehotso, Mexican Water, Oljato, Red Mesa, Teec Nos Pos, and Window Rock) have yet to  
46 respond to the BLM's request for consultation. The BLM will continue to consult with interested

1 **TABLE 7.2-1 Government-to-Government Consultation Summary**

Tribes Contacted for Consultation on the PEIS	Status of Consultation Process
<b><i>Tribes with Ties to Colorado</i></b>	
Southern Ute Indian Tribe, Ignacio, CO	No response to initial consultation letter. Follow-up consultation will be conducted.
Ute Mountain Ute Tribe, Towaoc, CO	No response to initial consultation letter. Follow-up consultation will be conducted.
<b><i>Tribes with Ties to Utah</i></b>	
Hopi Tribe, Kykotsmovi, AZ	The tribe has indicated it desires further contact regarding the EIS.
Kaibab Paiute Tribe, Fredonia, AZ	No response to initial consultation letter. Follow-up consultation will be conducted.
Navajo Nation, Window Rock, AZ	No response to initial consultation letter. Follow-up consultation will be conducted.
Navajo Nation, Aneth Chapter, Montezuma Creek, UT	No response to initial consultation letter. Follow-up consultation will be conducted.
Navajo Nation, Dennehotso Chapter, Dennehotso, AZ	No response to initial consultation letter. Follow-up consultation will be conducted.
Navajo Nation, Mexican Water Chapter, Teecnospos, AZ	No response to initial consultation letter. Follow-up consultation will be conducted.
Navajo Nation, Navajo Mountain Chapter, Tonalea, AZ	The chapter desires further information and has concerns.
Navajo Nation, Oljato Chapter, Monument Valley, UT	No response to initial consultation letter. Follow-up consultation will be conducted.
Navajo Nation, Red Mesa Chapter, Montezuma Creek, UT	No response to initial consultation letter. Follow-up consultation will be conducted.
Navajo Nation, Teecnospos Chapter, Teecnospos, AZ	No response to initial consultation letter. Follow-up consultation will be conducted.
Northwestern Band of Shoshone Nation, Pocatello, ID	No response to initial consultation letter. Follow-up consultation will be conducted.
Paiute Indian Tribe of Utah, Cedar City, UT	The tribe has indicated that further consultation is not needed.
Pueblo of Laguna, Laguna, NM	No response to initial consultation letter. Follow-up consultation will be conducted.
Pueblo of Nambe, Santa Fe, NM	No response to initial consultation letter. Follow-up consultation will be conducted.
Pueblo of Santa Clara, Espanola, NM	The tribe has indicated that further consultation is not needed.
Pueblo of Zia, Zia Pueblo, NM	No response to initial consultation letter. Follow-up consultation will be conducted.
Pueblo of Zuni, Zuni, NM	No response to initial consultation letter. Follow-up consultation will be conducted.
San Juan Southern Paiute Tribe, Tuba City, AZ	No response to initial consultation letter. Follow-up consultation will be conducted.

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**TABLE 7.2-1 (Cont.)**

Tribes Contacted for Consultation on the PEIS	Status of Consultation Process
Ute Indian Tribe, Fort Duchesne, UT	Contacts continue regarding potential leasing for commercial oil shale and/or tar sands development on split estate lands located in the Hill Creek Extension of the Uinta and Ouray Reservation..
White Mesa Band of the Ute Mountain Ute Tribe, Blanding, UT	No response to initial consultation letter. Follow-up consultation will be conducted.
<b><i>Tribes with Ties to Wyoming</i></b>	
Northern Arapaho Tribe, Fort Washakie, WY	No response to initial consultation letter. Follow-up consultation will be conducted.
Eastern Shoshone Tribe, Fort Washakie, WY	The tribe expressed a desire to be a consulting agency.
Shoshone-Bannock Tribes, Fort Hall, ID	No response to initial consultation letter. Follow-up consultation will be conducted.

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tribes and also will continue to keep all tribal entities informed about the NEPA process for the PEIS. In addition, the BLM will continue to implement government-to-government consultation on a case-by-case basis for site-specific oil shale and tar sands resource development projects.

**7.3 COORDINATION OF BLM STATE AND FIELD OFFICES**

This PEIS is being prepared by the BLM to evaluate potential land use plan amendments for oil shale and tar sands resources on public lands in three states. The BLM Washington, D.C., Office has worked extensively with BLM state offices and multiple district and field offices throughout the course of this PEIS to ensure adequate coordination. BLM state office, district and field office representatives have worked directly with the BLM Washington, D.C., Office staff to share relevant information about the existing planning documents and decisions, the location and nature of natural and cultural resources within the study area, and other land uses within the study area.

In addition, the BLM Washington, D.C., Office Public Affairs Division has coordinated with Public Affairs Office staff from each of the state offices. Jointly, these staff members have been responsible for coordinating all public involvement activities related to the PEIS (e.g., public meetings, local public notifications, advertisements); ~~conducting the government-to-government consultation process with Tribes; responding to any questions regarding the PEIS received from local parties; and forwarding, as appropriate, any questions or comments regarding the PEIS to appropriate minerals and resource staff.~~

1 | Coordination with BLM state office, district office and field office staff continued  
2 | throughout the preparation of the PEIS to ensure that the analysis adequately reflects state- and  
3 | local-level concerns and issues regarding oil shale and tar sands resources development.  
4 |  
5 |

#### 6 | **7.4 AGENCY CONSULTATION AND COORDINATION**

7 |

8 | The BLM invited approximately 55 50 federal, tribal, state, and local government  
9 | agencies to participate in preparation of the Oil Shale and Tar Sands PEIS as cooperating  
10 | agencies. Fourteen agencies expressed an interest in participating as cooperating agencies, and  
11 | MOUs between these agencies and the BLM were established. The following 14 agencies are  
12 | participating as cooperating agencies on the PEIS:  
13 |

- 14 | • NPS;
- 15 |
- 16 | • ~~BOR; Grand County, Utah;~~
- 17 |
- 18 | • ~~USFS; Sweetwater County, Wyoming;~~
- 19 |
- 20 | • USFWS;
- 21 |
- 22 | • State of Colorado, Department of Natural Resources and Department of  
23 | Public Health and the Environment;
- 24 |
- 25 | • State of Utah;
- 26 |
- 27 | • State of Wyoming;
- 28 |
- 29 | • Garfield County, Colorado;
- 30 |
- 31 | • ~~Mesa County, Colorado; Lincoln County, Wyoming;~~
- 32 |
- 33 | • ~~Rio Blanco County, Colorado; Coalition of Local Governments (Wyoming);~~
- 34 |
- 35 | • Duchesne County, Utah;
- 36 |
- 37 | • Uintah County, Utah;
- 38 |
- 39 | • City of Rifle, Colorado; and
- 40 |
- 41 | • ~~Town of Rangely, Colorado~~ Carbon County, Utah.
- 42 |

43 | Interactions with the cooperating agencies have included notification of the opening of  
44 | the scoping period; briefing on the draft alternatives; review of preliminary, internal drafts of the  
45 | PEIS; and informal meetings and discussions. ~~Comments from 13 of the 14 cooperating agencies~~

1 | ~~and the BLM's responses to those comments can be found at the end of this chapter. No~~  
2 | ~~comments on the PEIS were received from Duchesne County, Utah.~~

3 |  
4 | As required under Section 106 of the NHPA of 1966, as amended, the BLM has initiated  
5 | consultation ~~with~~ with those parties identified in 36 CFR 800.2(c). These parties include the  
6 | Colorado, Utah, and Wyoming SHPOs, ~~the ACHP, and~~ the tribes listed in Section 7.3, and other  
7 | parties with an interest in consulting under this authority regarding the proposed plan  
8 | amendments discussed in Chapter 2 and Appendix C. The BLM has also notified the public, in  
9 | the NOI, that it will use and coordinate public participation opportunities offered and consistent  
10 | with the NEPA and land use planning process to assist the agency in satisfying public  
11 | involvement requirements under Section 106 (36 CFR 800.2(d)). Consultation with these and  
12 | other identified parties will be on-going throughout this project review.

13 |  
14 | ~~In accordance with the Memorandum of Agreement (Appendix G of BLM 2002) between~~  
15 | ~~the BLM and the USFWS, the BLM will consult with the USFWS prior to granting leases for oil~~  
16 | ~~shale or tar sands development and prior to approving development plans for lease areas. These~~  
17 | ~~consultations will be conducted in accordance with the requirements of Section 7 of the ESA~~  
18 | ~~(16 USC 1536).~~

19 |  
20 | In addition to coordination with each of the three states in preparation of the PEIS, prior  
21 | to the approval of proposed plan amendments, the governor of each state will be given the  
22 | opportunity to identify any inconsistencies between the proposed plan amendments and state or  
23 | local plans and to provide recommendations in writing (during the 60-day consistency review  
24 | period).

## 25 | 26 | 27 | **7.5 EXPLANATION OF THE PUBLIC PROTEST PROCESS FOR THE PROPOSED** 28 | **LAND USE PLAN AMENDMENTS**

29 |  
30 | As discussed in Chapter 2 and Appendix C, the BLM proposes to amend ~~1210~~ land use  
31 | plans in Colorado, Utah, and Wyoming to adopt specific decisions rendered in the PEIS related  
32 | to land use designations for oil shale and tar sands resources. ~~A 30-day public review and protest~~  
33 | ~~period will begin on the date the Notice of Availability of the Final PEIS is published in the~~  
34 | ~~Federal Register. In accordance with 43 CFR, 1610.5-2, any person who (a) participates in the~~  
35 | ~~planning process leading to the proposed amendment and (b) has an interest that is or may be~~  
36 | ~~adversely affected by the amendment of a land use plan may protest the proposed amendment.~~  
37 | ~~A protest may raise only those issues that were submitted for the record during the planning~~  
38 | ~~process. These issues may have been raised by the protesting party or others. New issues may not~~  
39 | ~~be brought into the record at the protest stage. Specific information about the public protest~~  
40 | ~~process, including how to file a protest, will be provided when the Final PEIS is released.~~

## 41 | 42 | 43 | **7.6 ENDANGERED SPECIES ACT SECTION 7 REQUIREMENTS**

44 |  
45 | Section 7 of the ESA directs each federal agency, in consultation with the USFWS or the  
46 | NMFS, as appropriate, to ensure that any action authorized, funded, or carried out by the agency

1 is not likely to jeopardize the continued existence of any listed threatened or endangered species  
2 or result in the destruction or adverse modification of critical habitat.<sup>1</sup> Under Section 7 of the  
3 ESA, those agencies that authorize, fund, or carry out the federal action are commonly known as  
4 “action agencies.” If an action agency determines that its federal action “may affect” listed  
5 species or critical habitat, it must consult with the USFWS and/or NMFS, depending on the  
6 species that could be affected by the action.<sup>2</sup> If an action agency determines that the federal  
7 action will have no effect on listed species or critical habitat, the agency will make a “no effect”  
8 determination. In that case, the action agency does not initiate consultation with the USFWS  
9 and/or NMFS, and its obligations under Section 7 are complete.

10  
11 In complying with its duty under Section 7, the BLM, as the action agency, has examined  
12 the potential effects on listed species and designated critical habitat of amending land use plans  
13 to identify lands as available for application for commercial leases for oil shale or tar sands  
14 development. The BLM also examined the direction and analysis recently provided by the  
15 USFWS regarding compliance with Section 7, concerning emissions of greenhouse gases and  
16 any effects the emissions may cause to listed species and designated critical habitats, particularly  
17 with regard to the polar bear (Caswell 2008; Hall 2008).

18  
19 The BLM also examined the approach it took to compliance with Section 7 of the ESA in  
20 the 2008 OSTs PEIS. At the outset of the development of the 2008 OSTs PEIS, when the BLM  
21 planned to issue leases on the basis of the analyses conducted in that document, the BLM began  
22 the process of consultation with the USFWS pursuant to its obligations under Section 7 of the  
23 ESA. During this preliminary consultation, the BLM and USFWS jointly developed conservation  
24 measures to support conservation of species listed under the ESA. During preparation of what  
25 became the 2008 OSTs PEIS, the decision to be made (the proposed action) was limited to the  
26 amendment of land use plans setting out the allocation of areas that will be available for  
27 application for leases; therefore, during that period, the BLM determined that the proposed  
28 action would result in no effect on listed species or critical habitat. Similarly, as the proposed  
29 action for this PEIS, anticipated to be completed in 2012, is the amendment of land use plans  
30 setting out the allocation of areas that will be available or not available for application to lease,  
31 and on the basis of a similar rationale, the BLM anticipates making a “no effect” determination.  
32 However, the BLM is in the process of reviewing its approach to compliance with section 7 of  
33 the ESA. The results of that review and a discussion of the BLM’s approach to this compliance  
34 will be presented in the Final PEIS.

35  
36 The BLM recognizes that listed species and critical habitat are likely to be present in the  
37 lands described in the study area for the land use plan amendment action. Tables 4.8.1-6 and  
38 5.8.1-6 identify the listed species that occur in the states of Colorado, Utah, and Wyoming,  
39 where the land use plan amendments would be completed for either oil shale or tar sands leasing.  
40 Portions of the designated areas are occupied by listed species or contain designated critical  
41 habitat. Therefore, the BLM fully expects that, regardless of the approach to Section 7  
42 compliance taken in this land use planning initiative, if, in the future, in response to a call for  
43 nominations, an application for a lease, permit, or other authorization is received by the BLM for

---

1 See ESA § 7; 16 USC 1536.

2 See 50 CFR 402.2, 402.13–14.

1 oil shale or tar sands development within lands identified as available for application, procedures  
2 to comply with Section 7 of the ESA would be initiated at that time. Such procedures may take  
3 the form of a “no effect” determination by the BLM; informal consultation with the USFWS; or  
4 formal consultation with the USFWS. At such time as any “no effect” determination is made, or  
5 informal or formal consultation occurs, such determination/consultation would be made on the  
6 basis of a full record describing the proposed lease, project, site, method of construction, and  
7 other relevant information—all features lacking at the present time. Such a determination would  
8 take place following full policy and legal review.

9  
10 The conservation measures developed in the initial consultation with USFWS during  
11 development of the 2008 OSTS PEIS and described in this PEIS thus will not necessarily be  
12 applied, unless warranted by the results of the consultation that will take place at the time the  
13 BLM prepares to issue leases and/or approve development projects. These measures are,  
14 however, described briefly in Chapters 4 (oil shale) and 5 (tar sands) and more fully in  
15 Appendix F in order to provide the public, potential lessees, and the decision-maker with some  
16 general understanding of the kinds of measures that might be applicable to commercial oil shale  
17 development leases.

18  
19 The BLM, in coordination with the USFWS, intends to ensure that the conservation  
20 measures presented are consistent with those currently applied to other land management actions  
21 whose associated impacts are similar. However, the BLM presumes that potential impacts from  
22 possible development alternatives (described on the basis of assumptions made for analytical  
23 purposes in the NEPA analysis) are likely to vary in scale and intensity when compared with  
24 land management actions previously considered (e.g., oil and gas exploration and production,  
25 surface mining, underground mining). Hence, final conservation measures will be developed to  
26 be commensurate with the anticipated level of impact that may result from actual future site-  
27 specific projects developed under the selected alternative, as analyzed in those site-specific  
28 project level analyses, and they will be consistent with agency policies. For instance, current  
29 BLM guidance on similar actions (e.g., projects involved in the development of fluid mineral  
30 resources) requires that the least restrictive stipulation that effectively accomplishes the resource  
31 objectives or resource uses for a given alternative should be used in order that a project remain in  
32 compliance with the ESA.

### 33 34 35 **7.7 NATIONAL HISTORIC PRESERVATION ACT SECTION 106 REQUIREMENTS**

36  
37 Section 106 of NHPA requires federal agencies to take into account the effects of their  
38 undertakings (actions or authorizations) on any district, site, building, structure or object that is  
39 included in or eligible for inclusion in the National Register of Historic Places, and to provide  
40 the ACHP a reasonable opportunity to comment. ~~resources that are listed or eligible for listing on~~  
41 the NRHP. ~~Generally, nonrenewable resources covered by this act include archaeological sites,~~  
42 historic structures, and traditional cultural properties that meet certain significance criteria.  
43 Section 106 is implemented by regulations of the ACHP at 36 CFR 800. ~~These regulations~~  
44 provide for consultation with affected Tribes, relevant SHPOs, and the ACHP.  
45

1 | \_\_\_\_\_The BLM has initiated the Section 106 process pursuant to ~~Subpart B- these regulations of~~  
2 | ~~the ACHP regulations at 36 CFR Part 800, and it and~~ is reviewing existing information regarding  
3 | historic properties in the area of potential effects for this proposed amendment of land use plans.  
4 | The BLM ~~has initiated is engaging in~~ consultation with the SHPOs, tribes, and other consulting  
5 | parties. The BLM will identify historic properties and evaluate potential impacts as appropriate  
6 | under Section 106 of the NHPA for this proposed undertaking, in part through consultation with  
7 | the consulting parties. On the basis of this information, the BLM will make a determination  
8 | about ~~the potential~~ effects ~~of this land use plan amendment on historic properties. on identified~~  
9 | ~~historic properties.~~

~~OPotential~~ oil shale and tar sands development would require a three-stage decision-making process. The first stage that includes this proposed amendment of land use plans to allocate lands as open or closed to application for oil shale and/or tar sands leasing and development. Compliance with Section 106 for this stage is at a level appropriate for this decision. The BLM recognizes that the decision to allocate lands does not identify or authorize any future leasing or development, and that the technology for such development is subject to change from that reviewed in this study. The second stage requires a project proponent to obtain a lease for oil shale or tar sands development from the BLM. This action would be an undertaking subject to full compliance with Section 106. The final stage is the approval of a specific plan of development. This action is also subject to full compliance with Section 106, and may also be subject to stipulations or other requirements identified during the leasing stage to avoid, minimize or mitigate impacts to historic properties. Oil shale leasing may require additional consultation and information gathering (e.g., cultural resource inventories) prior to the lease sale. In addition, the lessee must submit a plan of development for any site-specific project that would require BLM approval. An additional site-specific Section 106 review will be conducted on these individual project plans of development. Section 106 consultations between the BLM and the SHPOs, appropriate Tribes, and other consulting parties would be required at the lease stage and at the plan of development stage. The BLM will complete comprehensive identification (e.g., field inventory), evaluation, protection, and mitigation, following the policies and procedures contained within the 1997 BLM National Programmatic Agreement and State Protocols (BLM 1997) and as indicated in any lease stipulations. Also, the BLM will continue to implement government-to-government consultation with Tribes and with other consulting parties on a case-by-case basis for plans of development.

The BLM does not approve any ground-disturbing activities that may affect any historic properties, sacred landscapes, and/or resources protected under the NHPA, American Indian Religious Freedom Act, Native American Graves Protection and Repatriation Act (NAGPRA), E.O. 13007 (U.S. President 1996), or other statutes and Executive Orders until it completes its obligations under applicable requirements of the NHPA and other authorities. The BLM may require modification to exploration or development proposals to protect such properties, or it may disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized, or mitigated. The BLM attaches this language to all lease parcels.

## 7.8 REFERENCES

BLM, 1997, *Programmatic Agreement among the Bureau of Land Management, the Advisory Council on Historic Preservation, and the National Conference of State Historic Preservation Officers Regarding the Manner in Which BLM Will Meet Its Responsibilities under the National Historic Preservation Act Preamble*, U.S. Department of the Interior. Available at <http://www.blm.gov/heritage/docum/finalPA.pdf>.

BLM, 2002, *Handbook H-1601-1—Land Use Planning Handbook*, Release 1-1675, U.S. Department of the Interior.

- 1 BLM, 2004a, *Manual 8120—Tribal Consultation under Cultural Resources*, Release 8-74,  
2 U.S. Department of the Interior.  
3
- 4 BLM, 2004b, *Handbook H-8120-1—General Procedural Guidance for Native American*  
5 *Consultation*, Release 8-75, U.S. Department of the Interior.  
6
- 7 BLM, 2006, *Summary of Public Scoping Comments for the Oil Shale and Tar Sands Resources*  
8 *Leasing Programmatic Environmental Impact Statement*, prepared by Argonne National  
9 Laboratory, Argonne, Ill., for BLM, Solid Minerals Group, Washington, D.C., Jan.  
10
- 11 BLM, 2011, “Notice of Intent to Prepare a Programmatic Environmental Impact Statement (EIS)  
12 and Possible Land Use Plan Amendments for Allocation of Oil Shale and Tar Sands Resources  
13 on Lands Administered by the Bureau of Land Management in Colorado, Utah, and Wyoming,”  
14 *Federal Register* 76:21003–21005.  
15
- 16 Caswell, J.L., 2008, personal communication from Caswell (Bureau of Land Management,  
17 Washington, D.C.) to H.D. Hall (Director, U.S. Fish and Wildlife Service, Washington, D.C.),  
18 June 19.  
19
- 20 DOI (U.S. Department of the Interior), 2011, *Department of the Interior Policy on Consultation*  
21 *with Indian Tribes*, Washington, D.C., Dec. 1.  
22
- 23 Hall, H.D., 2008, personal communication from Hall (Director, U.S. Fish and Wildlife Service,  
24 Washington, D.C.) to J.L. Caswell (Bureau of Land Management, Washington, D.C.), June 26.  
25
- 26 U.S. President, 1996, “Locating Federal Facilities on Historic Properties in Our Nation’s Central  
27 Cities,” Executive Order 13006, *Federal Register* 61:26071, May 24.  
28
- 29 U.S. President, 1998, “Consultation and Coordination with Indian Tribal Governments,”  
30 Executive Order 13084, *Federal Register* 63:27655, May 19.  
31
- 32 U.S. President, 2000, “Consultation and Coordination with Indian Tribal Governments,”  
33 Executive Order 13175, *Federal Register* 65:67249, Nov. 9.  
34