

From: Bowman, Randal
To: [Moore, Nikki](#)
Cc: [John Ruhs](#); [Kathleen Benedetto](#); [McAlear, Christopher](#); [Aaron Moody](#); [Sally Butts](#); [Timothy Fisher](#); [Kristin Bail](#); [Karen Kelleher](#)
Subject: Re: Mojave Trails NM Initial Data Request Exec Summary, Data Summary, New Information Request Responses
Date: Thursday, June 22, 2017 11:06:39 AM

OK, thanks. I'll include the above as a clarification following the original statements.

On Thu, Jun 22, 2017 at 12:02 PM, Moore, Nikki <nmoore@blm.gov> wrote:

Hi Randy,

We reached out to our cultural resources division and received some additional insight. Yes, we could go through the planning process and one of the (discretionary) management decisions may be to avoid but the comment was clarifying that Antiquities Act is the only law that includes a requirement to set aside or "avoid" historic properties and cultural resources. For example, NHPA requires mitigation to address the effects of an federal undertaking on historic properties, and avoidance is only one possible mitigation approach; not required. None of the cultural resource laws, except the Antiquities Act, actually sets aside cultural resources. BLM could designate an ACEC through planning process and issue a mineral withdrawal for example to help protect cultural resources. Also wilderness designations have a secondary effect of protecting cultural resources, but can also make it more difficult to monitor, protect and stabilize resources in remote areas. Particularly, historic cabins, prehistoric pueblos and other types of structural sites. Regarding the public involvement, agreed, I think the comment was just pointing out that, as the limitation of that specific Act, versus the benefit of having broader (not site specific/sensitive) public or tribal comments and involvement as might be required through other means.

Nikki Moore

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On Tue, Jun 20, 2017 at 5:08 PM, Bowman, Randal <randal_bowman@ios.doi.gov> wrote:

I have few questions on this, and will be going through the others in the coming days now that the public comment review is going smoothly, so may have more.

On the historic preservation answer to the additional questions, options for protection of resources -

- National Historic Preservation Act, (NHPA) The National Historic Preservation Act has no regulatory means to require Historic Properties be avoided. It requires following a process that is transparent and if a proposed undertaking cannot be designed in order to avoid adverse effects to a historic property, then the Government must go through a consultation process to resolve the adverse effects. This law prefers and recommends avoidance or minimizing effects, but it has no regulatory means to require avoidance.

- Could BLM as the managing agency not avoid any historic properties on its own initiative. Similarly, for these two -

- Paleontological Resources Preservation Act, (PRPA) does not require public involvement and transparency.

- Archaeological Resources Protection Act, (ARPA) addresses theft and damage to cultural resources that are of archaeological importance. It does not apply to project approvals or the protection of cultural resources.

- couldn't BLM provide for no development in areas with significant resources eligible for PPRA and ARPA protection through the management plan? This would seem address both of the cited issues, although its not clear to me why the agency would want public involvement and transparency on these two issues given the risks of looting.

On Wed, Jun 14, 2017 at 8:53 AM, Moore, Nikki <nmoore@blm.gov> wrote:

Hi Randy,

We have completed our review of the initial responses provided in response to the April 26, 2017 Executive Order 13792 and initial data request for the Mojave Trails National Monument. Please find attached an executive summary and data summary. These two summary documents along with the requested data and supporting sources of information have been uploaded to the respective Google Drive folder for the Mojave Trails National Monument.

Per your request, I have also attached the responses to the new, additional information requested in a word document. ("Mojave Trails_New Information Request_6_12_2017")

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