

Agreement Number AZ-910-0417

**Memorandum of Understanding
Between
the Department of the Interior,
Bureau of Land Management,
Arizona State Office,
All Arizona Field Offices
and
U.S. Department of Transportation,
Federal Highway Administration,
Arizona Division Office
as a Cooperating Agency
and
The State of Arizona,
Arizona Department of Transportation
as a Cooperating Agency**

I. Introduction

This Memorandum of Understanding (MOU) is for the purposes of collaborative planning and the production of an Environmental Impact Statement(s) (EIS) for a Resource Management Plan(s) (RMP), herein referred to as "RMP/EIS", involving all Bureau of Land Management Field Offices in Arizona. This MOU sets forth roles and responsibilities as agreed to between the U.S. Department of Transportation, Federal Highway Administration, Arizona Division Office, herein referred to as "FHWA", as a Cooperating Agency, and the State of Arizona, Arizona Department of Transportation, herein referred to as "ADOT", as a Cooperating Agency, and all Bureau of Land Management Field Offices in Arizona, herein referred to as "BLM". FHWA and ADOT are jointly herein referred to as "the Cooperators"; and the Cooperators and BLM are jointly herein referred to as "the Parties".

II. Background

Pursuant to 40 CFR Part 1500 and the National Environmental Policy Act (NEPA) at 42 U.S.C. § 4332, 43 CFR Part 1600 and the Federal Land Policy and Management Act (FLPMA) at 43 U.S.C. § 1712, BLM is the lead federal agency for development of any and all RMP/EISs as identified in Appendix A. The RMP/EISs must comply with requirements of the NEPA, the FLPMA, applicable Presidential Proclamations for National Monuments and legislative authorities for National Conservation Areas, and other applicable laws, regulations, and policies. BLM has the responsibility for the content of all planning documents, which include the Draft RMP/Draft EIS, the Proposed RMP/Final EIS and the Record(s) of Decision (ROD). BLM is also responsible for requesting the participation of other federal, state, local, and tribal government agencies and entities, and for cooperatively using their expertise during development of the RMP/EIS.

In pursuing this responsibility, BLM seeks to enlist FHWA and ADOT as Cooperating Agencies - a special status among interested parties -- to ensure full participation in the planning process. It is recognized that the Cooperators have jurisdiction and special expertise applicable to the RMP/EIS planning effort. It is the intention of this MOU to establish a framework for cooperation between the Parties where full recognition and respect to the authority and responsibility of each Party hereto is recognized.

The BLM shall engage in government-to-government consultation with affected Indian tribe(s) during all phases of the planning process, in accordance with applicable federal statutes, regulations and other authorities, including the National Environmental Policy Act, the National Historic Preservation Act, the Federal Land Policy and Management Act, the American Indian Religious Freedom Act, and Executive Order 13007 on Indian Sacred Sites. Status as a Cooperating Agency in no way affects the responsibility of BLM and the authority of affected tribe(s) to engage in these government-to-government consultations. To the extent BLM receives any Indian trust data as a function of the requirement to conduct government-to-government consultations with affected Indian tribes, BLM certifies that it will accord such data all necessary protection and security pursuant to applicable statutes, regulations, and policies, including those set forth in the context of any applicable litigation.

Nothing in this MOU alters or supersedes the authorities and responsibilities of any of the Parties on any matter under their respective jurisdictions.

III. Purposes

The purposes of this MOU are:

- A. To confirm the formal designation of BLM as lead agency with responsibility for the completion of the RMP/EIS and the ROD(s).
- B. To formally designate FHWA and ADOT as Cooperating Agencies in the RMP/EIS planning process.
- C. To formalize and provide a framework for cooperation and coordination between BLM and the Cooperators that will be necessary in order to successfully complete the RMP/EIS in a timely, efficient, and thorough manner.
- D. To describe the respective roles, responsibilities, jurisdictional authority, and expertise of each of the Parties in the planning process.
- E. To ensure the working relationship between BLM and the Cooperators meets the purposes and intent of NEPA.

IV. Agency Representatives

The Parties will designate a representative and backup representative as specified in Appendix A to ensure coordination between the Cooperators and BLM during the planning process. The Parties may change their point of contact at any time by providing a revised Appendix A to the other Parties.

V. Authorities for MOU

- A. The authorities of the BLM to enter into this MOU include, but are not limited to:
1. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).
 2. The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*).
 3. Council on Environmental Quality regulations on implementing NEPA (40 CFR Part 1501).
 4. The Alternative Dispute Resolution Act of 1990 (5 U.S.C. 581 *et seq.*).
 5. The Intergovernmental Cooperation Act of 1968 (40 U.S.C. 531).
- B. The authorities of FHWA to enter into this MOU include, but are not limited to:
1. Title 23 U.S.C.
 2. 23 CFR Part 771.
 3. The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).
 4. The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*).
 5. Council on Environmental Quality regulations on implementing NEPA (40 CFR Part 1501).
- C. The authorities of ADOT to enter into this MOU include, but are not limited to:
1. Arizona Revised Statutes Section 28-334.
 2. 23 U.S.C. 135.

VI. Roles and Responsibilities

- A. BLM Responsibilities:
1. BLM is responsible for the RMP/EIS planning process and is committed to working with the Cooperators to provide a meaningful and cooperative planning process.
 2. BLM has responsibility for determining the purpose and need of the project, the conclusions of the environmental analysis, which alternatives are selected, what mitigation measures will be included, and making final determinations on the content of the RMP/EIS documents. In meeting this responsibility, BLM will follow all applicable statutory and regulatory requirements.
 3. BLM will develop the RMP under the consistency requirements of federal law and will incorporate, to the extent possible, the comments, recommendations, and/or data submitted by the Cooperators in the RMP/EIS planning process.

4. BLM will provide the Cooperators with copies of key or relevant documents underlying the RMP/EIS pertinent to the Cooperators' roles and responsibilities, including technical reports, data, information, analyses, comments received, and working drafts relative to the environmental reviews, draft and final RMP/EISs, and all comments and information necessary for the RMP/EIS and its conclusions.
5. BLM will provide the Cooperators with the planning schedule, including review time frames, and with any changes to the schedule as early as practicable. When providing the Cooperators with documents and working drafts, BLM will, to the extent possible, give a reasonable time frame for review and return of consolidated and comprehensive comments.

B. Cooperating Agency Responsibilities:

1. FHWA is a Cooperating Agency in this planning process and is recognized to have jurisdiction and special expertise in the following areas:
 - a. Jurisdictional authority for appropriating rights of way for Title 23 projects.
 - b. Multi-modal transportation.
 - c. Review, comment and funding for federal aid highway plans and program.
 - d. Transportation/land use interface.
 - e. Transportation/traffic engineering. This includes, but is not limited to, congestion, safety, national security, and environmental stewardship.
 - f. NEPA for Title 23 projects.
2. ADOT is a Cooperating Agency in this planning process and is recognized to have jurisdiction and special expertise in the following areas:
 - a. Agent for FHWA with regard to jurisdictional authority for appropriating rights of way for Title 23 projects.
 - b. Environmental compliance with all applicable regulations, laws and policies for non-Title 23 ADOT projects.
 - c. Multi-modal transportation planning and programming.
 - d. Transportation/land use interface.
 - e. Transportation/traffic engineering, design, project development, construction and maintenance.
 - f. Access management.

C. Responsibilities of the Parties:

1. The Parties agree to participate in this planning process in good faith and make every effort to resolve any perceived areas of conflict. The Parties agree to fully explore issues before coming to conclusions and to commit to searching for opportunities for resolution designed to contribute to an effective RMP/EIS.
2. For services related to plan development, the Parties agree not to employ any third party having a financial interest in the outcome of the RMP/EIS. The Parties also agree to take all necessary steps to ensure no conflicts of interest exist with any officers, agents (including consultants), or representatives they may employ in the development of the RMP/EIS.
3. The Parties recognize that nothing in this MOU will be construed as limiting, affecting, or binding in any way the authority or legal responsibility of any of the Parties to perform beyond the respective authority of each, or as requiring any of the Parties to assume any obligation or expend any sum in excess of authorization and appropriations available.

VII. Funding

Each Party hereto agrees to fund their own expenses associated with this RMP/EIS process.

VIII. Implementation, Amendment, and Termination

This MOU becomes effective upon signature by all the Parties, and may be subsequently amended through written agreement of all signatories. Either Party may terminate this MOU by providing written notice of termination to the other Party. If not terminated sooner, this MOU will remain in effect for all current and subsequent RMP/EIS planning efforts.

IX. Immunity and Defenses Retained

Each Party hereto retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOU.

X. Signatures

The Parties hereto have executed this MOU on the dates shown below.

Federal Highway Administration, Arizona

One Arizona Center
400 East Van Buren Street, Suite 410
Phoenix, AZ 85004-2285



Robert E. Hollis, Arizona Division Administrator

Date 9/10/04

Arizona Department of Transportation
206 South 17th Avenue
Phoenix, AZ 85007



Victor Mendez, Director

Date 9/10/04

Bureau of Land Management
Arizona State Office
222 North Central Avenue
Phoenix, AZ 85004



Elaine Y. Zielinski, State Director

Date 9/10/04

Appendix A
Agency Representatives

BLM: Lead Agency

Plan: Agua Fria National Monument & Bradshaw - Harquahala RMPs

Primary Representative: Chris Horyza, AFNM & B-H Planning Coordinator

Backup Representative: Karen Kelleher, SDNM & Phoenix South Planning Coordinator

Plan: Lake Havasu RMP

Primary Representative: Gina Trafton, RMP Team Lead

Backup Representative: Cathy Wolff-White, Planning & Environmental Coordinator

Plan: Grand Canyon-Parashant National Monument, Vermilion Cliffs National Monument, and Arizona Strip RMPs

Primary Representative: Diana Hawks, Planning Coordinator

Backup Representative: Michael Herder, Wildlife Team Lead

Plan: Ironwood Forest National Monument RMP

Primary Representative: Tony Herrell, Manager, IFNM

Backup Representative: Larry Shults, Community Planner

Plan: Sonoran Desert National Monument & Phoenix South RMPs

Primary Representative: Karen Kelleher, SDNM & Phoenix South Planning Coordinator

Backup Representative: Chris Horyza, AFNM & B-H Planning Coordinator

Plan: San Pedro Riparian National Conservation Area & Tucson RMPs

Primary Representative: Karen Simms, Community Planner

Backup Representative: Shela McFarlin, Field Office Manager

Plan: Yuma RMP

Primary Representative: Micki Bailey, Planning & Environmental Coordinator, RMP Team Lead

Backup Representative: Karen Reichhardt, Resource Team Lead

FHWA: Cooperating Agency

Agency Coordinator:	Ken Davis, Senior Engineering Manager	
Primary Representative:	Engineering:	Area Engineer (See by area below)
	Environment:	Steve Thomas, Environmental Program Mgr.
	Planning:	Ed Stillings, Engineering Development Coord.
Backup Representative:	Engineering:	Ken Davis, Senior Engineering Manager
	Environment:	Ken Davis, Senior Engineering Manager
	Planning:	Nate Banks, Senior Engineering Manger

ADOT: Cooperating Agency

Agency Coordinator:	Dale Buskirk, Transportation Planning Division (TPD) Director	
Primary Representative:	Planning:	John Pein, Mgr. for Regional Statewide Planning
	Programming:	Arnold Burnham, Mgr. for Transportation Programming
	Transportation Data:	Frank McCullagh, Mgr. of Data Bureau
	Environmental:	Rick Duarte, Environment & Enhancement (EEG) Group Manager
	District:	District Engineer (see by District below)
Backup Representative:	Planning, Programming, Transportation Data: Dale Buskirk, TPD Director	
Backup Representative:	Environmental:	Tammy Flaitz, EEG Program Manager

ADOT District Engineers

Flagstaff:	John Harper
Globe:	Richard Powers
Kingman:	Sam Elters
Phoenix:	Perry Powell
Prescott:	Tom Foster
Safford:	Ron Casper
Tucson:	Dennis Alvarez
Yuma:	Dallas Hammitt

FHWA Area Engineers by ADOT District

A-1 Bill Vachon:	Phoenix
A-2 Phil Bleyl:	Safford, Tucson, Yuma
A-3 Tom Deitering:	Flagstaff, Kingman
A-4 Aryan Lirange:	Globe, Holbrook, Prescott

ADOT Districts by BLM Plan**Plan: Agua Fria National Monument & Bradshaw - Harquahala RMPs**

ADOT Districts: Prescott, Phoenix and Yuma

Plan: Lake Havasu RMP

ADOT Districts: Yuma, Prescott and Kingman

Plan: Grand Canyon-Parashant National Monument, Vermilion Cliffs National Monument, and Arizona Strip RMPs

ADOT District: Flagstaff

Plan: Ironwood Forest National Monument RMP

ADOT District: Tucson

Plan: Sonoran Desert National Monument & Phoenix South RMPs

ADOT Districts: Tucson, Phoenix and Yuma

Plan: San Pedro Riparian National Conservation Area & Tucson RMPs

ADOT Districts: Safford, Tucson and Globe

Plan: Yuma RMP

ADOT District: Yuma