

Subject: Collin County Cooperating vs. Participating Agency
Attachments: BLM_DeskGuide_CA_Relationships_2012.pdf
Importance: High

Please place on agenda under General Discussion.

Keith Self
County Judge
Collin County

-----Original Message-----

From: Tracy Homfeld
Sent: Monday, June 09, 2014 3:46 PM
To: Bill Bilyeu; Georgia Shepherd; Keith Self Judge
Subject: FW: Collin County Cooperating vs. Participating Agency
Importance: High

Fyi

From: Levesque, Laurence
Sent: Monday, June 09, 2014 3:00 PM
To: Tracy Homfeld
Subject: Collin County Cooperating vs. Participating Agency

Tracy,

This email is in response to the May 5, 2014 letter received from the Collin County, Texas Commissioners Court regarding becoming a 'Participation Agency' rather than a Cooperating Agency for the Bureau of Land Management (BLM) and Bureau of Indian Affairs (BIA) Environmental Impact Statement (EIS) and BLM Resource Management Plan (RMP) Revision project in Kansas, Oklahoma, and Texas.

Whereas the BLM and BIA welcome the opportunity to work with Collin County, Texas regarding issues and resources in the forthcoming EIS and RMP planning process, the modification to the Memorandum of Understanding to replace Cooperating Agency with Participating Agency is not recognized under the laws and guidance by which BLM and BIA extended the cooperating agency status invitation to Collins County, Texas.

Primarily, under the National Environmental Policy Act (NEPA) of 1970, as amended, which is the Federal statute mandating the BLM and BIA to conduct an EIS, the term Cooperating Agency, not "Participating Agency", is a recognized status in any EIS process. A Cooperating Agency is defined in 40 CFR 1508.5 as: "Cooperating Agency" means any federal agency other than a lead agency which has jurisdiction by law or special expertise with respect to any environmental impact involved in a proposal (or a reasonable alternative) for legislation or other major federal action significantly affecting the quality of the human environment. The selection and responsibilities of a cooperating agency are described in §1501.6. A state or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency.

Furthermore, the BLM and Department of Interior both have specific guidance for cooperating agencies in the NEPA and planning process. Again, the term "Participating Agency" is not a recognized status by BLM, BIA, or the Department of Interior. Cooperating agency is referenced in Department of the Interior Departmental Manual 516 DM 2.5 (e), which outlines criteria and the basis of cooperating agency invitations (NEPA and Council on Environmental Quality regulations). Additionally, the BLM further outlines cooperating agency roles and responsibilities and other NEPA related interactions with intergovernmental partners in "A Desk Guide to Cooperating Agency Relationships and Coordination with Intergovernmental Partners" which is attached. This desk guide outlines the different relationships possible including Cooperating Agency, Coordination, and Consultation. It is within this framework that BLM must operate during the EIS and RMP planning process.

Therefore, while BLM and BIA are unable to accept Collin County, Texas' participating agency MOU, the BLM and BIA again extend the invitation of cooperating agency status to Collins County, Texas for the EIS/ BLM RMP revision planning process.

Sincerely,
Larry Levesque

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Laurence Levesque

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