

>> C. Humphrey: I know there's a good one in Oregon, too. You have listened to us for quite a while now, about an hour and 15 minutes. So now it's finally your turn to ask questions or provide your perspectives, discuss best practices that have worked for your office your project or if you want to bring up any lessons learned, that is, what you recommend not to do based on some experience that you've had.

The phone number and fax number and e-mail address are now on your screen. For those of you listening on the listen-only Bridge, if you didn't write those down before, the phone number is 877-862-5346. The fax is 602-906-5701. Or you can e-mail, because everybody has those smart phones now, and it's ntctelecasts@blm.gov.

We have our panel members here as well as Laura Damm in Washington and Anne Boeder in Portland. They're available to answer any questions you have or discuss any of your dilemmas.

We've gotten some ePlanning questions before the broadcast, and if you have any more ePlanning- related questions, go ahead and ask but we'll probably have to send you those answers later. We were hoping to have Jane Peterson, she is the ePlanning project manager, on the line but she unfortunately had a scheduling conflict.

It usually takes the folks out in the field a little while to get their thoughts together and to get to the phones and the faxes, so we've got some of your questions that you asked us before the broadcast, and I'll start with those and we'll just take your questions as they come in.

All right let us start with, this is one is probably for Michael or Laura. This question is from Spokane. The question is: does the original signed FONSI and decision record go in the admin record or in the NEPA project file?

>> M. Williams: I'll let Laura handle this in Washington.

>> C. Humphrey: Did you hear that question Laura?

>> L. Damm: Yeah could you just repeat it again for me Cathy?

>> C. Humphrey: Sure. Are we supposed to include the signed FONSI and decision record in the Administrative Record or in the NEPA project file or both?

>> L. Damm: I would say it goes in both. Definitely it's part of the administrative record and can be in your project file as well.

>> C. Humphrey: Okay. Do you want to add anything to that or is that good?

>> M. Williams: That sounds good.

>> C. Humphrey: We got a lot of contractor questions, and I know we have some

contractors onboard, so, Megan, I'll probably send a couple of these to you. Here's one that: can the same contractor who prepares an EA or EIS also be responsible for maintaining the project file and then give it to the BLM at the end of the project? And if so, do contractors need to attend every BLM meeting? Because there's some people that have concerns with this if they do, is there a set protocol? In this question, we got a similar question from California, Eastern States and Wyoming.

>> M. Stouffer: I talked a little about contractors during the broadcast. Again it's really important that if you're going to have your contractor assist in preparation of the file that you're also keeping your own concurrent files at the BLM office. They're not going to be able to capture everything that happens internally.

As far as attending every single meeting, it's not required as long as you guys are doing why your responsibility to keep your own project notes and include those in the file when combining what the contractor keeps with what you're keeping. So, yeah, the contractor can play that role but make sure that you're keeping that same set of standards on your side of the house as well.

>> C. Humphrey: Great. Here is one from -- it doesn't say where this one is from. Linda or Megan, this one could be for you. Do you have any thoughts on how I should organize my e-mails for the project file? I know you talked about that a little bit.

>> M. Stouffer: This is my baby. I'm anal-retentive when it comes to keeping my email. Lotus Notes provides a lot of easy way to keep your e-mails. All the folders you can create on the side are great for organizing your project file.

Have a folder that mirrors all of those same organization topics that you have in the outline of your project file. Be dragging and dropping those e-mails regularly. The archiving function will save them all right there in that same manner, and, Linda, if you would like to explain how they can exported that would be helpful, I think.

>> L. Garrison: In Lotus Notes you would be able to create a PDF file, and I've found this to be excellent. It quickly does it for you. It's there. And as Megan said, continue with the same type of subject matters you have all the way through, and it's quick, it's easy and it's there and it's out of the way.

>> M. Stouffer: I'll just stress one more time that with your e-mails, this is probably one of the best ways to do the up-front work. If you get to organizing your e-mail on a regular basis -- in mine, I try not to keep many files in that inbox and keep dragging and dropping them. Then you won't have a lot of work to do, whether you have to organize a project file, an admin record or also a FOIA, which is also a pain when someone FOIAs all the e-mails associated with a topic. You have them all in a folder and you don't have to search through the rest your e-mails to find that stuff.

>> L. Garrison: One other thing is to make sure that they definitely are by subject, because you see a lot of e-mails that are not by subject. They just kind of throw them in

correspondence or such. But that shouldn't be the case. Definitely by subject matter.

>> C. Humphrey: That's helpful. We have a phone call, but I didn't hear where it was from. So, caller, if you could say your name and where you're from?

>> Participant: Hello. Yes, this is Victoria calling from BLM in Elko. I have four questions I would like to ask. Do you want me to ask them one at a time?

>> C. Humphrey: Probably.

>> Participant: How many copies do we need to have in our project files?

>> C. Humphrey: Who wants to take that one?

>> L. Garrison: I would say one copy. One copy. That would be your final copy. Unless there is some reason that you have deliberation processes going on where comments were made and so forth. Otherwise, one copy. Believe me, the courts don't want to see a million copies of everything.

>> Participant: If we have like references, and maybe it's for the administrative record, are we supposed to have like three copies of everything? In Alaska that's what we did. Is that for a different reason maybe?

>> L. Garrison: Three copies?

>> M. Stouffer: I am not sure but that might have something to do with your records keeping policy but for the need of the project file itself, and for future administrative records, you only need the one. There might -- we aren't -- we do not have a records management expert on the panel at this time, and any of those questions we can definitely find out the answers for you but I believe that has to do with your records management policy.

>> L. Damm: And are you talking about copies that go to the courts or solicitor or talking about copies you keep in your office?

>> Participant: The former, to the solicitor or to the courts.

>> L. Garrison: Oh, that's an entirely different story. That's entirely a different story. If you're litigated against, you absolutely have to have all these copies for each of the parties. You have to have it for the solicitor, for the judge, for DOJ and any other of the plainants, so forth. Those are copies of the original. Okay? They all have to be accurate. They all have to be the very same. It's going to end up Bates stamped prior to the final copies being made and distributed afterwards.

>> Participant: Okay. And is there a format that we're supposed to do? I've heard it was like one inch borders, single page, do not staple.

>> L. Garrison: You know, that is typical, but you should work with the solicitor's office. They will tell you, they are, of course, working very closely with DOJ attorneys and it really is a preference of the judge, you know, whatever court it is, and also the attorneys. So they will let you know exactly what they want.

>> Participant: Okay. The other two questions -- let me ask this one first -- did I understand it right that if we have made a decision on a document and after six years it has not been contested that we can get rid of all those records?

>> M. Williams: I'll go ahead and take this question. As Megan mentioned earlier, we don't have a records person here and there may be separate BLM records policies at issue, and so I would advise that you talk with your records coordinator in your office about that, but from a legal perspective we have six years in which to be sued. I would like to see that the documents are kept, especially for controversial issues, for six years. There may be separate records policies, though, at issue, and you need to talk to that records coordinator about how long to keep those documents specifically. I'm not sure what those deadlines are.

>> Participant: The last question I have is, the comment was the Resource Management Plan is silent on some issues, and I've used that term before, and after hearing you guys today, I'm thinking maybe we should never say that we're silent on something.

>> C. Humphrey: That's for you, Michael.

>> M. Williams: That's interesting. Using that sentence "silent" I was meaning more figuratively.

In the case I was thinking of in southern New Mexico, the administrative record was actually lacking certain maps and it was lacking perhaps the opinions of certain hydrologists. I think these resources were there and could have been added to the administrative record, but it was put together in a fashion where things were actually left out, unfortunately.

As far as using the sentence, "I'm silent about something", I guess I would like to have the resource specialist opine on something, and if they don't, they need to explain why they don't have enough facts, perhaps, or data to make a make a good opinion. That would be a good memoranda to the record. Instead of saying I'm silent, they would explain why they're silent. That would be the optimal thing to do.

>> Participant: If, in fact, in our resource management plan we do not address an issue, can we start the long standing rule this is how it's been done in the past to show why we're doing a certain thing?

>> M. Stouffer: If you're not addressing an issue you usually have to have a justification for why that is not an issue in your RMP, EIS, or EA, and you want to have some

explanation for why that issue is not being addressed whether it's in the document itself as issues not further analyzed or it's somewhere in the record as stating, you know, for example, if it's special status species and there are no special status species in the project area, you probably do want to write that down somewhere for the record. You want to have a memo to record that says: we did a review, we looked in the area, we surveyed, there were no special status species or associated habitat so it is not an issue.

So be really clear, because you don't want to get litigated on the fact and then have nothing in there that said that it wasn't an issue or why it wasn't an issue because then the court will say, well, you never said why and you didn't explain yourself. So always explain yourself if you have a situation like that.

>> Participant: Okay. That's all I have. Thank you.

>> C. Humphrey: So we got an e-mail in. This is from Idaho. We got a similar question from Pinedale.

I'll read the question. I think it might need a little clarification. We are a cooperating agency in a project that might result in a land use plan amendment and disposal of public lands. How do we manage the project file? The Realty Specialist is not the project lead for the BLM decision process but is the case file where we keep the project file, or do we have two projects files?

So I think probably first, Michael, this is probably for you and Laura to talk about the clarification of the terminology case file and project file.

>> M. Williams: Sure, I can take a stab at this. I know Megan is full of opinions on this, too, because we've discussed it before, but the project file gets turned into the administrative record when we're sued. The terminology is kind of complex because everyone maybe calls to file a different word initially. But there may be case files that are subsets of the project file, and when we get sued, that's when we use the word "administrative record," because that's what the court reviews.

Megan, do you have anything to add?

>> M. Stouffer: Just what you said, that the case file, especially for realty action, is going to be an aspect of the project file. So you're going to have that as a piece of the larger NEPA project, and even though you maybe aren't the project lead of this project, you should include your own standards of recordkeeping, whether or not they're keeping them over there in the other agency. Make sure you're keeping everything you would normally keep as if you were a project lead, as if you were in charge. Because if you guys are signing a decision, you will also be litigated as part of the project and you want to be able to complete that admin record that's used for litigation.

>> C. Humphrey: The person says we are a cooperating agency. So I don't know how that fits into the

>> M. Stouffer: I have a feeling they're a cooperating agency on a project where they're not the lead.

I mean, you may or may not actually be signing a decision, but you probably do want to keep those things, even if you aren't sued and you don't have a decision to sign, that agency might want all of the documents that you've been using and might want to have those as part of their administrative record as well.

>> C. Humphrey: And we had a question that's kind of along the same lines. Michael, this one might be for you. This one is from Salt Lake. If a project involves multiple agencies, for example, BLM, state and other federal agencies, what does the BLM need from them to go into the project file or the admin record?

>> M. Williams: We need as much as possible from our sister federal agencies or even state or local political things. We want to go to the Forest Service, the EPA, anyone that has touched a decision, we want to go to them and get anything we can from them. They may be reluctant to share maybe e-mails with their attorneys and I don't blame them. They're not going to want to share those things.

But hopefully they will give us a big stack of papers and when in doubt I want to include as much as possible.

>> C. Humphrey: Okay. We have a question, this one is probably for Anne Boeder in Portland. We got similar questions from Rawlins and Fairbanks. So, Anne, what GIS maps and data do I need to save for a NEPA document project file? What versions of maps do you need to save? Only those with major changes or... what would you say?

>> A. Boeder: I think you would use the same principles for GIS files or maps as you do for any other documents. If the GIS information and maps are important to the agency decision, you should be keeping those. In terms of versions, again, use the same rule as for draft documents. I think Megan mentioned that in her talk. You want to save those that contain critical changes or edits. That said, I think GIS data can quickly get out of control because there's so much information and a lot of times you do minor tweaks. I think the advice I would give is to focus on major changes in assumptions or methodology. When you've made those major changes, make sure you include those versions.

>> C. Humphrey: Thanks. We got an e-mail -- I'm not sure where this is from. It's a non-BLM'er. It's -- I like this question. How do you ensure against future dead hyperlinks? Who wants to take that one?

>> L. Garrison: You print it right then and there. That would be my advice. When you see it, print it.

And then you have it. And you don't have to worry about it. On the bottom of the page normally it will give you a date and it will give you the site where it was and so forth. So you'll have all the information whether it's one page or maybe 10 or 20, whatever it is. But I would print it.

>> C. Humphrey: So you would print whatever is important.

>> L. Garrison: And you could also put it on a CD if you need to, if that's the way you're keeping it.

>> M. Stouffer: I would like to make a plug if you're using web references, make sure they're accepted, peer reviewed. They have to be good references, and a lot of times they're downloadable into a PDF format. So don't just include the link and think that's it. If there's a downloadable version, you should be referencing that and not the web site.

>> C. Humphrey: That's a good point. This question is for Laura in D.C. and these are FOIA questions.

What type of information in the project file can be released if there's a FOIA about the project before a BLM decision? Do you want me to read that again?

>> L. Damm: I've got it, Cathy. Thanks. Yeah, I mean, it's really going to depend on what the requestor is asking for, but FOIA requests come in frequently before final decision is made, and the things that come to mind immediately you're not going to release privileged documents, and as Michael talked about, you're going to do your review for deliberative process privilege, attorney client privilege, work product privilege, you know, because the important thing is also if -- if there is litigation down the line we don't want to release -- have released those documents in the FOIA context because there's the possibility we could waive the privilege in the litigation context. So the other thing that comes to mind is work with your FOIA coordinator. There are different FOIA policies and your coordinator is going to be up to date on those.

>> C. Humphrey: I think that is always good advice work with the experts cause that is what they do. Laura there is another FOIA-related question. We may as well get that one now.

The question we had before was from Salt Lake, and this one, I think it's from El Centro, California. It says: should all FOIA documents be included in the administrative record, including those e-mails and other documents that didn't influence the decision? You know, like Megan was talking about somebody might FOIA all the e-mails on a certain project.

>> L. Damm: Right. You know, as I mentioned before, not all of the documents that are produced in response to a FOIA request, you know, they may not be part of your administrative record. It's really going to depend on what is being challenged, what agency action is being challenged, and, you know, if you produced some documents in response to that request, you know, that have nothing to do with the decision that's being challenged in court, then they're probably not going to be part of your administrative record.

>> C. Humphrey: That's good clarification. Okay. This one is for Megan that that this one is from Pocatello. It's -- it came in from an iphone. We're not allowed to archive on Lotus

Notes. Is it acceptable to convert e-mail to PDF for the admin record?

>> M. Stouffer: First, I'm not sure why you're not allowed to archive. It's a process in Lotus Notes and it saves a local version of your e-mail and it also helps you reduce that e-mail inbox warning that I get like every day saying that I have too many e-mails. But, yes, you can get your convert your e-mails to PDFs and save them in the same manner you would in your Lotus Notes. Just use that same organizational structure. If you'd like to convert them to PDFs and save them in that project file right away. Would even save you a step if you think that's what you would like to do. The way I was suggesting saves you a lot of time because you can do it pretty much regularly while checking your e-mail and you don't have to take that second step right away. But that's definitely an acceptable method.

>> C. Humphrey: We got another question. This one is from Salt Lake, and this is a question for a records person. So some of these questions we can't answer, I'll put them on the web site and we will get answers; same with the 'duration of keeping records' questions and the ePlanning questions.

And this one, I think, is a pretty good question: How long are we required to keep the contracts documents like statements of work, prework check lists, invoices, et cetera? So that's probably one for the record coordinator. Okay. So we'll get that one to you.

Then, let's see, here -- I don't know -- we kind of answered this one but I'll ask it anyway. This one is from Vernal, and it says, is there some guidance that shows how things like public comments, et cetera should be organized in the record? Should some items be organized by subject or type rather than everything being chronological? You want to take this one Linda?

>> L. Garrison: Well, typically everything is chronological, but depending on how that administrative record index is being developed would be on what decision was challenged and what type of documents you have. So, first of all, it's chronological, but then it could be in subject manner. That would be something I would work with the solicitor and make sure you're doing it in a fashion that is acceptable to him or her and that it won't have to be redone, because God knows how much work it is.

>> M. Stouffer: If I could just add to that, in the project file it's important to keep them in an organizational structure that works for you, because like I said, there are more reasons to keep a project file than just because it's -- it might be an admin record some day. So keep those records in an organizational structure that works for you, but within that organizational structure, yes, I would keep them chronologically.

>> C. Humphrey: We've got a question for Anne from Miles City Field Office, and this, Anne, you pretty much answered but I don't know if you want to add anything to it. Do you have any suggestions for compiling the project file as part of the ongoing document process?

>> A. Boeder: Yeah, I think I pretty much talked about that earlier. I think it's absolutely

critical that people submit records on a regular basis and also not only submit records but also that you have someone that is doing a regular review. As I mentioned, a lot of issues come up, a lot of confusion comes up during the project and if you let things languish you're going to cause yourself a lot of work later on. So just make sure you're doing a quality check as you go.

>> C. Humphrey: And from my experiences the resource specialists absolutely do not want to add files to the project file, and we've had things set up where you do it quarterly or whatever, and they just won't -- don't want to do it, so what have you done to encourage those people to participate?

>> A. Boeder: I call them and I nag them. I do. You know, some people are really good about it, and they -- every month on the dot they send it in, you know, and I send those people a pizza every once in a while, because that's great. Other folks you really do have to nag and just try to keep it going.