

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

From: Anson Wright

To: vbarr

Cc: Nancy Brown , Mike Eisenfeld , Terry Morgart , Erik Schlenker-Goodrich , jeff pappas , mames , Samantha Ruscavage_Barz , Kyle Tisdel

Date: June 29, 2017 at 12:30 PM

Subject: NHPA and CR 7950 (Chaco Road)

Dear Ms. Barr,

The Chaco Alliance is still seeking clarity and answers to the following questions:

- 1) What is the status of the six historic properties in CR7950 that were identified in the Parametrix survey report?
- 2) Did the BLM consult with the SHPO and tribes regarding their NRHP eligibility and potential adverse effects to these sites? If so, when? If no, why not?
- 3) Did the six sites undergo any form of treatment per 36 CFR 800 to avoid, minimize or mitigate harm to them as a result of San Juan County's roadwork?
- 4) If treatment took place, did the BLM consult with tribes about these sites as required in regulation?
- 5) If treatment did not take place, did BLM conduct a damage assessment after roadwork took place? If yes, what was the result? If no, why not?
- 6) Has San Juan County sought a permit from BLM regarding the application of stabilized aggregate on CR7950?
- 7) Has San Juan County been instructed by the BLM that they are required to seek permits for modifications to CR7950?
- 8) What permitting procedures are in place in order to protect other NRHP eligible sites in and along roads that may be impacted by roadwork?
- 9) Is the BLM working in coordination with the BIA to protect eligible sites in and along roads?

We would appreciate your prompt attention to this matter and await the answers to our questions.

Sincerely,

Anson Wright

Anson Wright

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----- Forwarded Message -----

From: "Anson Wright"

To: "vbarr"

Cc: "Rick Wessel, NMDOT" , "Nancy Brown" , "Mike Eisenfeld" , "Terry Morgart" ,
"Roger Moore" , "Erik Schlenker-Goodrich" , "jeff pappas" , "mames" , "Samantha
Ruscavage_Barz" , "Kyle Tisdell"

Sent: Thursday, August 4, 2016 1:04:40 PM

Subject: NHPA and CR 7950 (Chaco Road)

Ms. Barr,

Thank you for your letter (see attached), but your response is disappointing, and, unfortunately, all too familiar. Instead of addressing the issue, you circle the wagons. Where is any concern for the archeological sites that were damaged? The six sites were never mentioned in your three page letter. The Parametrix Cultural Resources report that documented the sites was in fact federally funded as part of a NHPA section 106 process under which the BLM was a consulting agency. The stabilized aggregate improvement that San Juan County (SJC) applied in 2014 was the preferred alternative analyzed under that document. The attached 2009 letter (see p.3) to the Chaco Alliance documents adverse effect to four archeological sites (two more sites were added in the final 2012 report). The letter is signed by Dave Keck, San Juan County; Greg Heitmann, FHWA; and Blake Roxlau, NMDOT. The BLM cannot simply ignore the conclusion of the FHWA and NMDOT that the stabilized aggregate improvement adversely effects historic properties.

I appreciate and look forward to getting more input from concerned experts like Mr. Wessel, NMDOT. Mr. Pappas, SHPO, has not involved himself for some time. The connection to the on-going Mancos Shale RMPA and associated EIS is obvious. The BLM must respond with transparency and integrity to concerns about historic properties that are under its stewardship if it expects anyone to trust that the Mancos Shale RMPA/EIS process is being conducted in an impartial and thorough manner. In addition, SJC must be instructed by BLM to seek permits for projects involving stabilized

aggregate because of its established adverse effect on historic properties. Recent newspaper articles have touted the BLM desire for better consultation with all the Tribes. When was any consultation done on these six sites? Your considered response is appreciated.

Sincerely,

Anson Wright

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4/11/2016

Dear Victoria Barr, □□

Recent FOIA documents obtained from the Bureau of Land Management (BLM) support the Chaco Alliance in our concern about lack of proper Section 106 compliance concerning roads that cross BLM land that were and continue to be substantially altered or improved.

To be clear, Chaco Alliance has no desire to obtain a judgement about the validity of Revised Statute (RS) 2477 claims, and we do not need to. The BLM's own research shows that in fact no Federal Land Policy and Management Act (FLPMA) claims were submitted by San Juan County (SJC) in either the 2006 or 2014 improvements to the Chaco Road (CR7950). Both Sarah Scott (BLM) and Jillian Aragon (BLM) confirm that "technically the County performed the upgrades without proper authorization from the BLM." They also state that "there were several missed opportunities for the BLM to respond or interject and ensure that proper process was followed." (See History of CR7900_CR7950.pdf, also Chaco and County Road 7950.pdf). □□□ As the documents show, the notion that there is a network of RS2477 roads in SJC that cross public lands and lie beyond federal protection is wrong, but apparently believed by both the BLM and SJC. The BLM Farmington Field Office (FFO) was required to issue SJC a special use permit for work to legally proceed. For the BLM to wash its hands of the problem by stating they were never asked for a permit by SJC, and therefore had no responsibility

under Section 106 is simply false. This response is unacceptable from an agency tasked with the protection of our historic properties.□□

The FOIA emails indicate that there is confusion at the BLM about the funding of the 2014 improvement. The funding source remains a question, but it was not from the Federal Highways Administration (FHWA). FHWA funding was involved in an earlier road improvement effort of the 8.21 miles, and it was being analyzed under the National Environmental Policy Act (NEPA), but that effort and the NEPA process were abandoned by SJC in 2012. It is important to note that the BLM was a cooperating agency under NEPA for the 8.21 mile road improvement effort, and that BLM-FFO received a final cultural resources report from an environmental contractor, Parametrix, in November 2012. That report documented six sites/historic properties, with three determined as National Register eligible and three potentially eligible that would be adversely affected by the stabilized aggregate alternative that SJC proceeded with in 2014 (without BLM mitigation or Section 106 consultation). The final report was heavily redacted with the acronym for the Archaeological Resources Protection Act (ARPA) stamped in large red letters protecting site locations and maps. Regardless of funding, the ARPA delineation is correct, as the undertakings and historic properties are located on BLM managed lands, and therefore all historic properties within the road should have been subjected to review and mitigation via a memorandum of agreement pursuant to Section 106 of the NHPA in both the 2006 and 2014 road improvements. The archaeology staff at Chaco Culture National Historical Park and the BLM-FFO have known for years about the historic properties that have "probably not suffered badly" from the most recent roadwork.

□□From the Final Parametrix Cultural Resources Survey (CulSurveyAbstract.rtf)

□□"The preferred alternative [road aggregate] would have an adverse effect or a potential adverse effect on six sites, including three eligible sites (LA 160518, LA 160520, and LA 150034) and three undetermined sites (LA 160516, LA 160519, and LA 160521). The eligible properties contain buried cultural features that would likely be impacted by the preferred alternative, potentially compromising qualities that make the sites NRHP eligible.

□At these sites, it is recommend that a testing and data recovery plan be devised with input from □consulting parties, and implemented prior to any construction activities. Testing investigations also are □recommended at the sites with undetermined eligibility, to characterize the nature and extent of the □cultural materials and features in the APE.

□Subject to consultation and comment, we recommend that the undertaking as a whole would have an □adverse effect, and would need to be mitigated accordingly. The

proposed undertaking may have an adverse effect on three historic properties and a potential adverse effect on three sites with undetermined eligibility status. Parametrix recommends a mitigation plan be developed and implemented with input from agencies and consulting parties to minimize adverse effects to these sites. Prior to the development of the plan, a field visit should be conducted to verify feature locations in the roadway, per consultation with the BLM.

In addition, if significant buried cultural deposits are discovered in any part of the APE during road improvement activities, work in the affected area should cease immediately and the NMDOT, Navajo Nation THPO, BLM, and New Mexico SHPO should be notified. This undertaking complies with the provisions of the National Historic Preservation Act of 1966, as amended through 1992, and applicable regulations. The report is consistent with applicable federal, state, and Navajo Nation standards for cultural resource management" □

To summarize: The improvements to the Chaco road in 2006 (3 miles) and the 8.21 mile made in 2014, were both done without NHPA Section 106 compliance, and this may only be the tip of the iceberg. How many more improvements to roads crossing public lands have taken place under the false notion that there is a network of RS2477 roads that escape all protection?

The Chaco Alliance makes the following requests of the BLM-FFO:

- 1) Please inform and consult with the Hopi and all affected tribes as well as the Navajo Nation and local chapters about what has happened on CR7950 and how the BLM-FFO plans to avoid further damage to other historic properties/archaeological sites under its management and protection;
- 2) Please inspect all archaeological sites within CR7950 to assess their condition and to determine how additional damage can be mitigated;□□
- 3) Please demand that SJC cease and desist all improvement work on roads it claims or imagines are RS2477 ROWs.
- 4) Please conduct an internal review to determine how decisions are "cleared" up the chain of command.
- 5) Please better educate staff and SJC about the requirements under special use permits and Section 106 compliance in all ROW and roadway improvements on public lands; this would include other undertakings, such as the □□Mancos Shale RMPA and associated EIS, pipelines, and associated roadways on public (BLM) land. □□
- 6) Please furnish any missing correspondence from or to the National Park Service (NPS), SJC, and State of New Mexico – Historic Preservation Division and Department of Transportation.□

Thank you for your consideration.

Sincerely,

Anson Wright

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

From: "Victoria Barr" <vbarr@blm.gov>

To: "Nancy Brown" <nbrown@achp.gov>

Cc: "Anson Wright" <ansonw@comcast.net>, "larry turk" <larry_turk@nps.gov>, "Terry Morgart" <tmorgart@hopi.nsn.us>, "Jeff Pappas" <jeff.pappas@state.nm.us>, "Mike Eisenfeld" <mike@sanjuancitizens.org>, "Samantha Ruscavage_Barz" <sruscavagebarz@wildearthguardians.org>, "Erik Schlenker-Goodrich" <eriksg@westernlaw.org>, "Rick Wessel, NMDOT" <rick.wessel@state.nm.us>, "Cynthia Herhahn" <cherhahn@blm.gov>, "James Copeland" <jcopelan@blm.gov>

Sent: Thursday, September 17, 2015 2:27:57 PM

Subject: Re: NHPA and CR7950 (Chaco Road)

Hi Nancy,

The BLM did not permit any undertakings for this project. Also, the County did not submit an SF-299 as per FLMPA for a Right of Way to improve this road. The BLM does not recognize any RS-2477 claims, unless adjudicated by a federal court. As I was not here at the time, I was not aware of any such conversation. The BLM did not permit an undertaking, we had no Section 106 responsibility. I will defer to SHPO on the rest of this matter.

Please let me know if you have any more questions.

Thank you,

Vicki

