

Attachment 2: Section 106 Consultation Summary

DRAFT PROGRAMMATIC AGREEMENT
AMONG
THE FEDERAL RAILROAD ADMINISTRATION,
THE FEDERAL HIGHWAY ADMINISTRATION,
THE SURFACE TRANSPORTATION BOARD,
THE U.S. DEPARTMENT OF THE INTERIOR BUREAU OF LAND MANAGEMENT, THE
U.S. ARMY CORPS OF ENGINEERS LOS ANGELES DISTRICT, THE CALIFORNIA
STATE HISTORIC PRESERVATION OFFICER,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER,
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION,
AND DESERTXPRESS ENTERPRISES, LLC
REGARDING
THE
BRIGHTLINE WEST – LAS VEGAS TO VICTOR VALLEY PROJECT IN BAKER,
YERMO, AND BARSTOW IN
SAN BERNARDINO COUNTY, CALIFORNIA AND LAS VEGAS AND PRIMM IN CLARK
COUNTY, NEVADA

Section 106 Consultation Summary December 2022

Summary

The Federal Railroad Administration (FRA) prepared a re-evaluation pursuant to the National Environmental Policy Act (NEPA) for the Brightline West – Las Vegas to Victor Valley project (Project) located in San Bernardino County, California, and Clark County, Nevada. Initially, FRA, in cooperation with the Bureau of Land Management (BLM), Surface Transportation Board (STB), Federal Highway Administration (FHWA), and the National Park Service (NPS), prepared a Draft Environmental Impact Statement (DEIS) in March 2009, a Supplemental DEIS in August 2010, a Final Environmental Impact Statement (FEIS) in March 2011, and a Record of Decision (ROD) in July 2011. A Programmatic Agreement (PA) was executed on February 15, 2011 and lapsed in January 2018 pursuant to its terms before construction of the Project was initiated. FRA most recently completed a reevaluation of the FEIS and ROD in September 2020. In accordance with the re-evaluation, FRA has updated its Section 106 compliance documents.

Initiation of Section 106 Consultation

As part of its assessment of impacts, FRA formally initiated re-consultation with Tribes, agencies, and other consulting parties under the National Historic Preservation Act (Section 106) in late March 2019 by identifying potential consulting parties and gathering information regarding historic properties which might be affected by the proposed Project.

CRWG Meetings

FRA conducted Cultural Resources Working Group (CRWG) telephone conference calls. FRA has held twelve CRWG teleconference workshops on the Project to date: October 10, November 21, and December 12, 2019; January 16, February 20, July 23, and August 27, 2020; July 22, August 26, November 16, and November 18, 2021; and June 15, 2022. CRWG workshops were cancelled in 2020 due to several factors, including in response to Tribal comments, but were resumed in July and August 2021. All Consulting Parties were invited to attend these CRWG workshops.

CRWG Distributions

- FRA distributed a draft Archaeological Survey Methodology Memorandum (ASMM) to the Consulting Parties on September 18, 2019. After receiving comments, FRA distributed the final ASMM to the Consulting Parties on November 22, 2020. A revised final ASMM was distributed on July 22, 2020. Consulting Tribes were also invited to participate in Tribal monitoring of archaeological surveys.
- To address concerns regarding the Area of Potential Effects (APE) for the Project, FRA established the need for a visual analysis of the corridor to respond to the concerns more definitively and to expand the aboveground APE, if needed, as well as to provide additional detail on noise and vibration analyses. FRA presented the visual analysis to the CRWG on February 20, 2020, and requested that Consulting Parties provide comments on the approach of the analysis and any additional concerns prior to distribution of a revised APE. FRA subsequently distributed a revised draft APE on September 4, 2020, with expanded boundaries and an expanded visual

analysis. After receiving further comments, FRA distributed a revised draft APE on June 15, 2021, and a revised final APE on September 30, 2021.

- FRA distributed the first draft of the Programmatic Agreement (PA) to the Consulting Parties on September 25, 2020, for review and comment. Several Consulting Parties provided comments.
- FRA distributed a draft Subsurface Archaeological Survey Work Plan to the Consulting Parties on August 20, 2021. After receiving comments, FRA distributed the final Subsurface Archaeological Survey Work Plan to the Consulting Parties on September 28, 2021.
- FRA distributed the draft Inventory Reports for archaeology and built environment on November 11, 2021, and after receiving and incorporating comments from Consulting Parties, FRA distributed the final reports to Consulting Parties on March 18, 2022. The Nevada State Historic Preservation Officer (SHPO) concurred with FRA’s eligibility determinations for the built environment in Nevada on December 6, 2021, and the California SHPO likewise concurred with FRA’s eligibility determinations for the built environment in California on February 3, 2022.
- FRA distributed the draft built environment Findings of Effect and archaeology Findings of Eligibility and Effect reports to Consulting Parties for review and comment on May 27, 2022. The Nevada SHPO concurred with FRA’s eligibility determinations for archaeological resources in Nevada on August 22, 2022 and the California SHPO likewise concurred with FRA’s eligibility determinations for archaeological resources in California on **MONTH DAY YEAR**. Several Consulting Parties provided comments, and FRA distributed the revised final documents on October 21, 2022.

Individual Section 106 Consulting Party Consultation Summaries, 2019 to Present

A summary of the number and types of consultation undertaken with each Section 106 consulting party between February 2019 and October 1, 2022, is presented below (Tables 1 and 2) based on the Project administrative record. When required, materials for distribution were sent both via email and via hard copy. Calls included individual calls as well as group conversations with multiple consulting parties. In addition, many calls are fully detailed within emails from FRA distributing meeting notes, meeting attendees, or other information; as such, more calls have taken place than are coded in the Calls column.

Table 1: Quantities of Consultation between FRA and Consulting Parties

	Section 106 Consulting Party	Emails or Hard Copy Distributions from FRA or Consultants to Consulting Party	Calls from FRA or Consultants to Consulting Party (phone call, conference call, or web-based call via WebEx, Microsoft Teams, or other platform)	Government to Government Meeting between FRA and Tribe, often In-Person (Agency may be Attendee)
Agency	Advisory Council on Historic Preservation	94	5	0
Other	Brightline West	28	1	0
Agency	Bureau of Land Management - Barstow Field Office	163*	5	2

Agency	Bureau of Land Management - Las Vegas Field Office	163*	6	1
Agency	California Office of Historic Preservation	143	6	1
Agency	Caltrans	126	6	1
Tribe	Chemehuevi Indian Tribe of the Chemehuevi Reservation, California	104	6	0
Agency	Clark County Department of Aviation	29	1	0
Tribe	Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California	150	18	2
Agency	Federal Aviation Administration	35	0	0
Agency	Federal Highway Administration	104	5	0
Tribe	Fort Mojave Indian Tribe of Arizona, California and Nevada	127	13	3
Tribe	Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony	96	9	0
Tribe	Moapa Band of Paiute Indians of the Moapa River Indian Reservation	127	9	0
Tribe	Morongo Band of Mission Indians	197	19	2
Agency	National Park Service - Mojave National Preserve	76**	0	0
Agency	National Park Service - Old Spanish Trail	76**	0	0
Agency	Nevada Department of Transportation	122	5	1
Agency	Nevada Office of Historic Preservation	135	7	0
Other	Old Spanish Trail Association	21	2	0
Tribe	Soboba Band of Luiseno Indians	145	11	2
Agency	Surface Transportation Board	89	5	1
Tribe	Timbisha Shoshone Tribe	141	17	0

Tribe	Twenty-Nine Palms Band of Mission Indians	160	13	2
Agency	US Army Corps of Engineers, Los Angeles District	95	5	0
Tribe	Yuhaaviatam of San Manuel Nation	201	25	4

*Significant quantities of emails to both BLM jurisdictions in California and Nevada overlapped.

** Significant quantities of emails to both NPS jurisdictions overlapped.

Table 2: Section 106 Letters from FRA to Consulting Parties and SHPOs

Date	Recipient	Topic
9/18/2019	All	Area of Potential Effects, Archaeological Survey Methodology Memo
11/22/2019	All	Archaeological Survey Methodology Memo
9/4/2020	All	Area of Potential Effects
9/25/2020	All	Draft Programmatic Agreement Distribution
6/15/2021	All	Area of Potential Effects
10/1/2021	All	Area of Potential Effects finalization and responses to comments
11/5/2021	All	Draft Archaeology Technical Report Distribution
11/5/2021	All	Draft Built Environment Technical Report Distribution
3/18/2022	All	Final Built Environment Technical Report and Archaeology Technical Report Distribution
5/27/2022	All	Draft FOEs for Built Environment and Archaeology
10/21/2022	All	Final FOEs for Built Environment and Archaeology