



United States Department of the Interior
BUREAU OF LAND MANAGEMENT

Washington, D.C. 20240
<http://www.blm.gov>



JUN 19 2014

The Honorable Greg Abbott
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

Dear Attorney General Abbott:

As indicated in a letter to you on May 1, 2014, we are providing additional information in response to your letter of April 22, 2014, concerning the Bureau of Land Management's (BLM) work along the Red River. We have, through the years, had a good relationship with Texas, and I would like to reiterate the BLM's commitment to maintaining these relationships with the citizens, industry, and other interested groups.

Your requests relate to two issues: (1) the Resource Management Plan/Environmental Impact Statement process, and (2) ownership interests of the United States and adjacent landowners in the area. I appreciate the opportunity to offer clarification.

The Resource Management Planning (RMP) process is set forth at 43 C.F.R. Part 1600. The National Environmental Policy Act (NEPA) process associated with plans, including development of Environmental Impact Statements (EIS), is delineated at 40 C.F.R. Parts 1500-1508, with additional Department of the Interior-specific regulations at 43 C.F.R. Part 46. To summarize, the RMP/EIS process is designed to establish general management goals, objectives, and directives for public resources, including lands and minerals, managed by the BLM. The process involves numerous steps that allow for public input, analysis, and informed decision-making with regard to public resources. In order to ensure the appropriate consistency with other governmental planning efforts, the BLM invited local, state, Federal, and tribal representatives to participate as cooperating agencies in the preparation of the BLM's RMP/EIS. It is my understanding that multiple county governments and agencies of the States of Texas and Oklahoma have agreed to participate as cooperating agencies. Although the RMP does not apply to private lands, the process ensures full consideration of adjacent uses, including local uses of resources from public lands.

The initial step in the public RMP/EIS process is the issuance of a Notice of Intent (NOI), informing the public that the BLM intends to initiate its planning efforts. The NOI for the three-state planning effort that includes the Red River area was published on July 26, 2013 (78 Fed. Reg. 45266-68). The publication of a NOI initiates what is called "scoping," which is a public process that involves identifying issues – those brought forward by individuals, state, and Federal agencies – for analysis during the RMP/EIS process. The BLM has collected all comments received during the scoping period and incorporated the comments into a publicly available scoping report.

The next phase includes the development of an Analysis of the Management Situation (AMS), followed by development of several potential management alternatives for detailed consideration. The AMS is an assessment of current management and baseline conditions, which

assists the agency and the public in understanding, reviewing, comparing, and weighing the impacts of any proposed management alternatives. The BLM then develops alternatives based on the comments received during the scoping process and the management issues to be addressed.

Next, the BLM develops an analysis of the effects of each of the alternatives. After analyzing, comparing, and weighing the environmental and other effects of the alternatives, the BLM identifies a preferred alternative. The analysis of all alternatives and identification of a preferred alternative are presented in a "Draft RMP/EIS." This document is released to the public for review for at least a 90-day comment period. Once the Draft RMP/EIS comment period closes, the BLM reviews, analyzes, and incorporates, to the extent practicable, the information gathered from the comments into a Proposed RMP/Final EIS. The Proposed RMP/Final EIS is released for a 30-day public protest period and a 60-day Governor's consistency review period.

To finalize the RMP, the BLM prepares a Record of Decision/Approved RMP and releases it to the public, after which time the RMP will be implemented and monitored. The estimated date for a signed Record of Decision for the three-state RMP revision that includes the Red River area is January 2018. The map of the planning area is enclosed.

With regard to the issue of ownership interests, the Supreme Court and other judicial decisions from the 1920s up until Congressional consent to the Red River Boundary Compact established the boundary between Texas and Oklahoma as the gradient line along the south bank of the Red River. Congressional consent to the Compact in 2000 established the boundary between the two states as the vegetation line on the south bank of the Red River. The Compact, however, did not change the United States' existing interests in any public domain lands along the Red River ("The full title and ownership of so much of the bed of the river as lies south of its medial line are in the United States." *Oklahoma v. Texas*, 261 U.S. 345, 346 (1923)). According to the plain terms of Article VII, the Compact "does not change: (1) the title of any person or entity, public or private, to any of the lands adjacent to the Red River; (2) the rights, including riparian rights, of any person or entity, public or private, that exist as a result of the person's or entity's title to lands adjacent to the Red River; or (3) the boundaries of those lands." Therefore, any shifts in the boundary between Texas and Oklahoma as a result of the Compact may mean that public lands that are owned by the United States now are within Texas that were formerly in Oklahoma. The BLM will determine the uses and extent of these public lands through the current public planning process and any necessary surveys.

The RMP/EIS process encourages substantial participation by the public and important participation by cooperating agencies, including county governments and State agencies. Any further inquiries may be addressed to me or to Steve Tryon, who oversees operations in Texas, Oklahoma, and Kansas. Mr. Tryon can be reached at the BLM's Oklahoma Field Office (918-621-4100) or by email at stryon@blm.gov.

Thank you for the opportunity to respond to your inquiries.

Sincerely,

A handwritten signature in black ink, appearing to read "Neil Kornze", with a long, sweeping underline that extends to the right.

Neil Kornze
Director