

**CONSULTATION AND  
COORDINATION**

## 5.0 CONSULTATION AND COORDINATION

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### 5.1 INTRODUCTION

During the scoping process, and consultation and coordination throughout the preparation of this EIS, formal and informal efforts were made by the OSM to involve other Federal agencies, State and local governments, tribes, and the public. Consultation and coordination with Federal and intergovernmental agencies, organizations, American Indian tribes, and interested groups and individuals are important to (1) ensure that the most appropriate data have been gathered and employed for analyses and (2) ensure that agency and public sentiment and values are considered and incorporated into decision making.

The sections of this chapter describe the consultation and coordination efforts for this EIS including the formal consultation required, public participation activities, and public review of the Draft EIS.

### 5.2 CONSULTATION AND COORDINATION

Coordination and collaboration on the EIS were accomplished through written and telephone communication, meetings, and other cooperative efforts between OSM and interested Federal, State, and local government agencies, tribes, organizations, other interest groups, and the public.

#### 5.2.1 Cooperating Agencies

As part of scoping, Federal, State, and local agencies, and American Indian tribes that may have an interest in the Black Mesa Project EIS were invited to participate in the preparation of the EIS as cooperating agencies. A cooperating agency is any Federal, State, or local government agency or American Indian tribe that has either jurisdiction by law or special expertise regarding environmental impacts of a proposal or a reasonable alternative for a major Federal action affecting the quality of the human environment. The benefits of cooperating agency participation in the analyses for and preparation of this EIS include (1) disclosure of relevant information early in the analytical process; (2) application of available technical expertise and staff support; (3) avoidance of duplication of other Federal, State, local, and tribal procedures; and (4) establishment of a mechanism for addressing intergovernmental issues.

In August 2004, OSM sent formal letters inviting 11 agencies to participate as cooperating agencies in the preparation of the Black Mesa Project EIS and received 9 positive responses. The Arizona State Land Department and the USACE, Los Angeles District, both responded to OSM that they would participate as reviewers of the EIS rather than as cooperating agencies in the preparation of the EIS. On November 15, 2005, the Hualapai Tribe requested cooperating agency status from OSM. OSM sent a formal letter acknowledging the Hualapai Tribe as a cooperating agency on November 30, 2005. The cooperating agencies included the following:

- Federal: Department of the Interior—Reclamation, BIA, BLM; USEPA; and Department of Agriculture—Forest Service.
- American Indian Tribes: Hopi Tribe, Hualapai Tribe, Navajo Nation.
- Local governments: City of Kingman, Mohave County.

The initial cooperating agencies' meeting was held on March 24, 2005, to discuss the status of the project, results of the scoping process, scope of the EIS, EIS and project schedules, future coordination, agency actions and decisions, alternatives to be considered and issues to be addressed in the EIS, and the criteria to be used to evaluate alternatives. On September 14, 2005, OSM met with the BLM in the Kingman Field Office to discuss the status of the project and, in particular, the 14-mile portion of the coal-slurry pipeline that crosses public land administered by BLM. Representatives of the Hualapai Tribe attended

the meeting. The cooperating agencies also held frequent (usually weekly) conference calls and met on May 17 and 18, 2006, to discuss the content of the preliminary Draft EIS.

Following the public review of the Draft EIS in February 2007 and as OSM prepared the Final EIS, work on the EIS was suspended. When, in April 2008, Peabody requested that OSM complete the Final EIS, reducing the scope of the project from approval of the LOM revision and all components associated with supplying coal to the Mohave Generating Station to approval of the LOM revision only, OSM reconvened the cooperating agencies to explain the status of the project. The Bureau of Reclamation and Forest Service informed OSM that they no longer would be cooperating agencies; however, all agencies agreed to participate to the extent needed.

### **5.2.2 Government-to-Government Consultation**

The United States has a unique legal relationship with American Indian tribal governments as set forth in the Constitution of the United States, treaties, Executive Orders, Federal statutes, Federal policy, and tribal requirements, which establish the interaction that must take place between Federal and tribal governments. The most important basis for this relationship is the trust responsibility of the United States to protect tribal sovereignty, self-determination, tribal lands, tribal assets and resources, and treaty and other federally recognized and reserved rights. Federal agencies work with tribes, government-to-government, to address issues concerning Indian tribal self-government, tribal trust resources, and Indian tribal treaty and other rights. Government-to-government consultation is the process of seeking, discussing, and considering views on environmental and cultural resource management issues. OSM's Directive REG-18, Protection of Indian Lands and Indian Trust Assets, contains consultation and coordination procedures for OSM's interaction with the tribes. In addition to status as cooperating agencies, OSM requested formal government-to-government consultation with the Hopi Tribe, Hualapai Tribe, and Navajo Nation. Meetings were held with each as shown in Table 5-1.

**Table 5-1 Government-to-Government Consultation Meetings**

<b>Tribal Government</b>	<b>Meeting Dates</b>
Hopi Tribe	June 23, 2006 November 7, 2006 September 4, 2008
Hualapai Tribe	May 17, 2006
Navajo Nation	November 29, 2006

### **5.2.3 Formal Consultation**

OSM and the cooperating agencies are required to prepare EISs in coordination with any studies or analyses required by the Fish and Wildlife Coordination Act (16 U.S.C. Sec 661 et seq. [16 U.S.C. 661]), Endangered Species Act of 1973 (16 U.S.C. Sec 1531 et seq. [16 U.S.C. 1531]), and the National Historic Preservation Act of 1966, as amended (16 U.S.C. Sec 470 et seq. [16 U.S.C. 470]).

Early in the preparation of the EIS, the cooperating agencies suggested and agreed to work collaboratively in the consultations for Section 7 of the Endangered Species Act and Section 106 of the National Historic Preservation Act. Doing so would effectively facilitate the consultation processes. The following sections are summaries of the activities associated with the consultation processes to date for threatened and endangered species and cultural resources.

### 5.2.3.1 Biological Resources

In accordance with the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 et seq., formal consultation is required when the action agency (or agencies in this case) determines that the proposed action may affect a listed species or designated critical habitat. The consultation process determines whether the proposed action is likely to jeopardize the continued existence of a species or destroy or adversely modify critical habitat. The process begins with OSM's written request and a submittal of a completed biological assessment, and concludes with the issuance of a biological opinion from FWS, which may include an incidental take statement or a letter of concurrence from FWS (if FWS agrees that the proposed project would have no effect or would not adversely affect a threatened or endangered species or their critical habitat. In May 2005, URS Corporation (URS), on behalf of OSM, sent letters requesting lists of any federally listed, sensitive, endangered, and/or threatened species that may occur in the project area to the AGFD; BLM, Kingman Field Office; Forest Service, Kaibab National Forest; Hopi Tribe; Navajo Nation; Nevada National Heritage Program; FWS, Southern Nevada Field Office; and FWS, Arizona Ecological Services (a copy of the letter and list of recipients are in Appendix K). Responses and accompanying information received are summarized in Table 5-2.

**Table 5-2 Information Provided by Agency or Tribe  
Regarding Listed Species in the Project Area**

Agency	Date of Response	Information Provided
AGFD	May 20, 2005	Special status species list
Forest Service, Kaibab National Forest	May 17, 2005	Forest Service sensitive species list
Navajo Nation	July 8, 2005	Endangered and sensitive species
Nevada National Heritage Program	July 17, 2005	Endangered, threatened, candidate and/or at risk plant and animal taxa
FWS, Southern Nevada Field Office	May 23, 2005	Federally listed species list
FWS, Arizona Ecological Services (courtesy copy to the Flagstaff field office)	July 12, 2005	Federally listed species list

Considerable efforts have been made by all participants to determine major issues and concerns and potential effects the project may have on federally listed species. At the suggestion of the cooperating agencies, a Biological Resources Subcommittee was formed soon after the cooperating agency meeting on March 24, 2005 to facilitate this process. The Biological Resources Subcommittee consists of representatives from OSM, BIA, BLM, Reclamation, USEPA, FWS, AGFD, Hopi Tribe, and Navajo Nation. The project applicants also participated in the Biological Resources Subcommittee. To date, informal consultation has been ongoing. This process has helped (1) identify which species and habitats may be in the action area, (2) determine the effects the project action may have on listed species, (3) discuss ways the effects can be eliminated or reduced through project action modification, (4) discuss the need to enter into formal consultation, and (5) discuss ways the project action can help in the conservation of selected listed species. Several meetings of varied members of the Biological Resources Subcommittee were held. Table 5-3 provides a summary of these meetings.

**Table 5-3      Summary of Meetings Related to Federally  
Listed Species on the Black Mesa Project**

<b>Agency/Organization</b>	<b>Date</b>	<b>Topics Discussed</b>
FWS, Reclamation, and URS (on behalf of OSM)	June 24, 2005	Initial organization of the Biological Resources Subcommittee.
OSM, FWS, Reclamation, BIA, AGFD, Hopi Tribe, Navajo Nation, Peabody, SCE, BMPI, and URS	July 26, 2005	Status of the project including biological resources studies, and coordination with the participants regarding the multi-agency Consultation Agreement.
OSM, Reclamation, BIA, Hopi Tribe, Navajo Nation, FWS, AGFD, SCE, SRP, and URS	September 21, 2005	Results of the groundwater and streamflow modeling, and potential impacts on native fish due to baseflow reductions of water as a result of pumping water from the C aquifer.
OSM, Reclamation, BIA, Hopi Tribe, Navajo Nation, AGFD, SCE, Salt River Project (SRP), and URS	September 27, 2005	Initial discussion about potential conservation opportunities for threatened and endangered species that may be affected by pumping water from the C aquifer.
OSM, Reclamation, BIA, Hopi Tribe, Navajo Nation, SCE, SRP, and URS	September 29, 2005	Status of the species analyses, status and schedule of the Biological Assessment, and further discussion on conservation opportunities for species potentially affected by C aquifer pumping (Little Colorado River spinedace, roundtail chub, and Chiricahua leopard frog).
OSM, FWS, Reclamation, BIA, AGFD, Hopi Tribe, Navajo Nation, SCE, SRP, and URS	December 14, 2005	Provide background on project and potential impacts, review current list of conservation measures developed, and discuss other potential conservation measures that may be implemented to offset project related impacts to special status fish species.
OSM, FWS, Reclamation, BIA, AGFD, Forest Service, Hopi Tribe, Navajo Nation, SCE, SRP, and URS	January 18 and 19, 2006	Provide background on project and potential impacts, review potential conservation measures for special status fish species on the Apache-Sitgreaves and Coconino National Forests, and obtain Forest Service input on proposed conservation measures and Forest Service process for implementing these measures.
OSM, FWS, Reclamation, BIA, AGFD, Forest Service, Hopi Tribe, Navajo Nation, SCE, SRP, and URS	February 8, 2006	Prioritize conservation measures that have been previously identified to assist the project proponents in identifying a proposal for consideration in the Biological Assessment and EIS.
FWS, Reclamation, BIA, AGFD, SCE, SRP, and URS	February 21, 2006	Review additional information provided by meeting participants on refining the short list of potential projects ranked at the last meeting. Add as much detail as possible to the proposed projects.
OSM, FWS, Reclamation, BIA, ADWR, USDI/PPA, Forest Service, Hopi Tribe, Navajo Nation, SCE, SRP, and URS	May 17, 2006	Review previous considerations and recommendations. Review new facts and recommendations for proposed capital conservation projects (as described in the East Clear Creek Watershed Health Improvement Environmental Assessment) to offset impacts on listed native fish species.
OSM, FWS, BIA, Navajo Nation, SRP, and URS	October 18, 2006	Review agency comments on the draft Biological Assessment.

A Consultation Agreement was developed to outline the consultation process and products, actions, and schedule for the consultation under Section 7 of the ESA. The Consultation Participants are OSM, BIA, BLM, Forest Service, USEPA, and FWS. The Hopi Tribe, Navajo Nation, SRP (the Mohave Generating Station co-owners were represented previously by SCE), Peabody, and BMPI are participating through BIA and OSM as applicants. OSM distributed the Consultation Agreement to the Consultation Participants for signature on November 3, 2005. All signatures were obtained by October 3, 2006.

All data collected from the Federal agencies, the tribes, and State and local government agencies, as described in Table 5-2, have been incorporated into this EIS and the Biological Assessment. The Biological Assessment was completed and submitted to the FWS on March 13, 2007.

In addition to the Biological Assessment, two Biological Evaluations were prepared: one for the Forest Service to address Forest Service sensitive and indicator species and migratory bird species and one for the Navajo Nation to address Navajo Nation sensitive species. When work on the Black Mesa Project was suspended in mid-May 2007, work on the Biological Evaluations also was suspended.

When, in April 2008, Peabody requested that OSM complete the Final EIS, OSM also revised the Biological Assessment to reflect Alternative B as the proposed project. Also, the Biological Evaluation for the Navajo Nation was completed (to reflect Alternative B as the proposed project). The Biological Evaluation for the Forest Service is no longer needed because rebuilding the coal-slurry pipeline is no longer a part of the proposed project.

#### **5.2.3.2 Cultural Resources**

Section 106 of the NHPA requires OSM and the cooperating Federal agencies to consider the effects of the agencies' undertakings on properties listed in or eligible for the National Register of Historic Places (which can include a diversity of archaeological, historical, and traditional cultural resources). Regulations for Protection of Historic Properties (36 CFR 800) implement Section 106 and define a process for Federal agencies to use in consulting SHPOs, THPOs, and other interested parties as they assess the effects of their undertakings. Pursuant to those regulations, OSM initiated Section 106 consultations with the Navajo THPO and the Arizona and Nevada SHPOs in May 2005 (a copy of the letter and list of recipients are in Appendix K).

OSM has coordinated closely with the Hopi Tribe and Navajo Nation about various aspects of the project, including potential impacts on cultural resources. The HCPO and the Navajo Nation Archaeology Department were retained to conduct inventories of archaeological and historical sites on their respective reservations, as well as studies of traditional cultural resources of significance to their respective communities. On May 20, 2005, OSM sent letters to 11 other tribes to provide them information about the project area and to ask if they wanted to participate in the Section 106 consultations (a copy of the letter and list of recipients are in Appendix K). The Hualapai Tribe indicated they not only wanted to participate in the Section 106 consultations, but also wanted to serve as a cooperating agency in the preparation of the EIS. Because of their concerns, the Hualapai Tribe Department of Cultural Resources was retained to inventory and assess effects on traditional Hualapai cultural resources. The Chemehuevi Tribe, Colorado River Indian Tribes, Havasupai Tribe, and Fort Mojave Tribe indicated they wanted to participate in the Section 106 consultations. The San Juan Southern Paiute Tribe did not want to participate in the consultations but indicated it wanted to continue to receive information about the project. The Zuni Tribe also indicated it wanted to continue to receive information about the project, but would defer to the Hopi Tribe and Navajo Nation regarding treatment of cultural resources and could opt to not participate in a Section 106 agreement. The Pahrump Paiute Tribe did not indicate if it wanted to participate. The Yavapai-Apache Nation, Yavapai-Prescott Indian Tribe, and Las Vegas Paiute Tribe indicated they have no concerns about the project and did not want to participate in the consultations.



Informational meetings were held on June 30, 2005 with representatives of the Navajo Nation; on July 1, 2005 with the Hopi Tribe; and on October 17, 2005 with the Hualapai Tribe to provide further information and discuss future coordination.

A Cultural Resources Subcommittee, with representatives of the lead and cooperating agencies, other involved Federal and State agencies, and project proponents was organized to coordinate compliance with Section 106, and other laws, regulations, and ordinances protecting cultural resources. The subcommittee members reviewed the cultural resources study plan and technical reports. A Cultural Resources Subcommittee meeting was held on January 10, 2006 to discuss the results of the cultural resources inventory and development of a Section 106 Programmatic Agreement.

On May 8, 2006, OSM sent a letter to the Hopi Tribe, Hualapai Tribe, and Navajo Nation requesting a government-to-government consultation meeting with each tribe. A meeting with the Hualapai Tribe was held on May 17, 2006 and with the Hopi Tribe on June 23, 2006. In addition, after the close of the reopened comment period on the Draft EIS, the Hopi Tribal Chairman asked OSM to meet with the Hopi Tribal Council. As noted in Table 5-1, the meeting was held on September 4, 2008. Also, the Chairman asked that OSM meet with the Hopi and Tewa people to clarify the status of the Black Mesa Project and answer questions. This meeting was held on September 5, 2008.

### **5.3 PUBLIC PARTICIPATION**

The public participation process for the EIS has been ongoing throughout the development of the EIS. In addition to formal public participation activities, informal contacts occur frequently with public land users, industry, and interested persons through meetings, field trips, telephone calls, electronic mail, and/or letters.

As required, OSM, in coordination with the cooperating agencies, conducted scoping in the early stages of preparing the EIS to encourage public participation and solicit public comments on the scope and significance of the proposed action (CEQ regulations, 40 CFR 1501.7). OSM initiated the scoping process in January 2005 by requesting comments to determine the scope of issues and concerns that needed to be considered during the analyses conducted for the EIS.

#### **5.3.1 Notice of Intent**

OSM's Federal Register Notice of Intent, published on December 1, 2004 (Volume 69 Federal Register Pages 69949-69951 [69 FR 69949-69951]), marked the beginning of the scoping period for the Black Mesa Project EIS. The scoping period, required to be a minimum of 30 days, was announced as ending on January 21, 2005. OSM solicited comments from relevant agencies and the public and held eight scoping meetings in January 2005. At the request of the public, OSM extended the scoping period and held two additional scoping meetings in Forest Lake, Arizona, in February 2005. A second notice was published in the Federal Register on February 4, 2005 (70 FR 6036), announcing the additional meetings and the extension of the scoping period to March 4, 2005. Copies of the Federal Register notices are in Appendix L.

#### **5.3.2 Newspaper and Radio Announcements**

In December 2004 and February 2005, OSM issued news releases to local and regional newspapers to announce the project and to inform the public of the scoping meeting times and locations. The news releases were sent to The Navajo Times, Hopi Tutuveni, The Navajo-Hopi Observer, Arizona Daily Sun, Gallup Independent, Mohave Valley Daily News, The Laughlin Nevada Times, Bullhead City Bee, The Kingman Daily Miner, The Winslow Mail, and Holbrook Tribune.

OSM also used paid radio announcements and newspaper advertisements to introduce the project and announce the times and locations of the scoping meetings. The radio announcements were aired in December 2004 and in January and February 2005; the newspaper advertisements were published in December 2004 and February 2005.

The paid radio announcements were aired on KUYI Hopi Radio 88.1 FM and on KTNN Radio AM 660 (Navajo Nation). The announcements on KUYI were made in Hopi followed by English twice a day on December 31, 2004, and on February 12, 14, and 16, 2005. The announcements on KTNN were made in Navajo followed by English twice a day on five consecutive days, December 29, 2004, through January 2, 2005; and on February 12, 14, and 16, 2005.

Table 5-4 lists the newspapers and the date of each paid advertisement.

**Table 5-4 Newspapers and Dates of Publications**

<b>Publication</b>	<b>Date(s)</b>
The Navajo Times	Thursday, December 16 and 23, 2004, and February 3, 2005
Hopi Tutuveni	Thursday, December 16, 2004 and Wednesday, February 2, 2005
The Navajo-Hopi Observer	Wednesday, December 15 and 22, 2004 and Thursday, February 3, 2005
Arizona Daily Sun	Wednesday, December 15 and 22, 2004
Gallup Independent	Wednesday, December 15 and 22, 2004
Mohave Valley Daily News	Wednesday, December 22 and 29, 2004
The Laughlin Nevada Times	Wednesday, December 22 and 29, 2004
Bullhead City Bee	Friday, December 24 and 31, 2004
The Kingman Daily Miner	Wednesday, December 22 and 29, 2004

### **5.3.3 Additional Public Notice**

OSM created bulletin-board flyers to announce the scoping meetings and sent the flyers to the Hopi Office of Mining and Mineral Resources and the Navajo Minerals Department with the request that the flyers be posted in public places such as tribal offices, chapter houses, and grocery stores.

In addition, OSM developed a project Web site (<http://www.wrcc.osmre.gov/WR/BlackMesaEIS.htm>) for the Black Mesa Project. Information that was posted on the Web site at the time of scoping and shortly thereafter included public meeting announcements; descriptions of the project, EIS planning process, and the proposed project area; Black Mesa Project Scoping Summary Report; and transcripts of the public scoping meetings.

A project newsletter update was sent in September 2005 to all members of the public who chose to be on the project mailing list as well as project team members and other interested parties. The newsletter provided a summary of the project, including the steps of the EIS process and what would be happening next in the project. In addition, a summary of issues heard during scoping was included in the newsletter. Contact information for OSM was provided to allow interested parties to ask questions or request additional information.

Two more newsletters were sent in July and September 2006. The former newsletter notified the persons on the mail list that on June 19, 2006, SCE, majority owner of Mohave Generating Station, announced it would not continue to pursue resumed operation of the power plant. Due to uncertainty about the future of the Black Mesa Project, OSM stated that it had suspended activities to publish the Draft EIS. The latter



newsletter notified persons on the mailing list that OSM had resumed work on the EIS because SRP, a minority owner of the power plant, had requested OSM to do so because it was still assessing the situation and might reopen the power plant if it found additional partners.

## 5.4 PUBLIC SCOPING MEETINGS

OSM hosted 10 public scoping meetings, with a total of more than 720 in attendance, within a period that extended from January 3, 2005, through February 19, 2005. Attendance is shown in Table 5-5.

**Table 5-5 Public Scoping Meeting Dates, Locations, Attendance, and Number of Speakers (2005)**

Meeting Date	Meeting Location	Attendance	Number of Speakers
January 3	St. Michaels, Arizona	41	9
January 4	Forest Lake, Arizona	55+	25
January 4	Kayenta, Arizona	106	22
January 5	Kykotsmovi, Arizona	119	34
January 6	Leupp, Arizona	120	29
January 12	Kingman, Arizona	35	14
January 12	Laughlin, Nevada	38	20
January 13	Flagstaff, Arizona	130+	53
February 18	Forest Lake, Arizona	44	13
February 19	Forest Lake, Arizona	38	18
<b>TOTAL</b>		<b>726+</b>	<b>237</b>

Each of the 10 meetings began with a presentation of the project by OSM, followed by oral presentations by members of the public wanting to comment on the Black Mesa Project and the EIS process. Two project maps and a flow chart of the EIS process were displayed at each of the meetings.

A project fact sheet, comment forms, speaker cards, and mailing list cards were made available to the public at each scoping meeting. A Navajo interpreter was available at the meetings in St. Michaels, Forest Lake, Kayenta, Kykotsmovi, Leupp, and Flagstaff to translate oral comments. A court reporter was present at each meeting and the meeting transcripts became part of the official record.

Comment forms were provided to enable individual members of the public and agency representatives to (1) express interest in being added to the project mailing list; (2) provide comments regarding issues or concerns that they deemed to be significant and that they felt should be addressed in the EIS, and why; (3) provide suggestions regarding reasonable changes and/or additions to the proposed project that they felt should be made to reduce the environmental impacts (including mitigation measures not in the proposal that they feel should be carried out) and why; and (4) submit any other comments or questions regarding the overall project. OSM invited participants to submit comments in formats other than the comment forms, such as letters, facsimiles, and electronic mail messages submitted to OSM.

### 5.4.1 Comments Received During Scoping

Comments received during the scoping period were analyzed and documented in the Black Mesa Project Scoping Summary Report issued in April 2005. By the end of the scoping comment period, OSM had received 351 written or electronically mailed submissions and 237 statements made by speakers at public meetings. In addition to these, more than 2,000 form letters regarding the LOM revision were received. The comments received during scoping also are summarized in Chapter 1 Section 1.5. Specific environmental issues and where they are addressed in this Draft EIS are listed in Table 1-1.

## 5.5 PUBLIC REVIEW OF THE DRAFT EIS

Prior to the release of the Draft EIS, OSM sent out a newsletter that announced the upcoming availability of the Draft EIS. The newsletter included a postage-prepaid form for requesting a paper copy, an electronic copy (CD), or a separately bound Executive Summary. More than 700 copies of the Draft EIS were distributed in late November 2006 to the entities on the project mailing list. OSM announced the availability of the Black Mesa Project Draft EIS for public review and comment in the Federal Register on November 22, 2006. The USEPA published a notice of availability in the Federal Register on December 1, 2006. Copies of the Draft EIS also were mailed to those who contacted OSM after the November 22, 2006, Federal Register notice. Shipments of the Draft EIS were sent to the Hopi Tribe and Navajo Nation for distribution to people who requested copies. Copies of the document were made available for public review at the Gallup Public Library, Hopi Public Library, Tuba City Public Library, Page Public Library, Winslow Public Library, Holbrook Public Library, Flagstaff City-Coconino County Public Library, Kingman Library, Laughlin Library, and Bullhead City Library.

The USEPA Federal Register announcement on December 1, 2006, initiated a 45-day public comment period that was to end 45 days later on January 22, 2007. The availability of the Draft EIS, deadline for public comments, and locations, dates, and times of public meetings on the Draft EIS were announced in media releases, paid newspaper legal notices, and radio announcements. Radio broadcasts were in English, Hopi, and Navajo. A summary of these efforts is presented in Table 5-6, below.

**Table 5-6 Summary of Legal Notice Publications and Radio Announcements**

<b>Publication</b>	<b>Original Legal Notice</b>	<b>Revised Legal Notice<sup>1</sup></b>
Navajo Times	December 7, 14, 21, 2006	December 28, 2006
Hopi Tutuveni	December 7, 21, 2006	January 4, 2007
Navajo-Hopi Observer	December 6, 13, 20, 2006	December 27, 2006
Arizona Daily Sun	December 11-17, 2006	December 29, 2006; January 5, 2007
Gallup Independent	December 11-16, 22, 2006	December 29, 2006
Mohave Valley Daily News	December 10-15, 2006	December 22, 29, 2006
Laughlin Nevada Times	December 13, 20, 2006	December 27, 2006; January 3, 2007
Bullhead City Bee	December 8, 15, 22, 2006	December 29, 2006
Kingman Daily Miner	December 17-22, 2006	December 29, 2006; January 5, 2007
Winslow Mail	December 13, 20, 2006	December 27, 2006; January 3, 2007
Holbrook Tribune-News	December 13, 15, 20, 22, 2006	December 27, 29, 2006
KUYI Hopi Radio 88.1 FM	Twice per day (morning and evening) December 26 through 29 (in English and Hopi), 2006	Twice per day (morning and evening) December 26 through 29 (in English and Hopi), 2006
KTNN Radio AM 660 (Navajo)	Eight times on day of December 29 (in English and Navajo) <sup>2</sup> , 2006	December 29 <sup>2</sup> , 2006

**NOTES:**

<sup>1</sup> Revised legal notice announced second Leupp meeting and extended comment period deadline.

<sup>2</sup> Originally scheduled to occur during the same days as the Hopi announcement; however, due to weather-related equipment failure all Navajo radio spots occurred on December 29.

In a Federal Register Notice published on December 20, 2006, OSM announced that the comment period would be extended to February 6, 2007, and that a second public meeting would be held at the Leupp Chapter on January 11, 2007 (the first meeting in Leupp on January 9, 2007, had coincided with the Navajo presidential election). In addition to the notice provided in the Federal Register, these changes were announced through paid newspaper legal notices and radio announcements in English, Hopi, and Navajo (as shown on Table 5-6).

Government agencies, tribes, and the public were invited to submit their comments by postal service, electronic mail, facsimile transmissions (faxes), and in a variety of formats at the public meetings. This information, as well as team contact information and the project Web site address, was provided in the Federal Register notice, newspaper legal notices, and at the public hearings.

OSM held 12 public meetings to provide information about the Draft EIS and opportunities to comment on its adequacy. Table 5-7 provides the dates and locations of the meetings. The meetings were conducted as informal open houses where attendees could (1) watch a video about the Black Mesa Project EIS, (2) view project display boards and discuss the proposed action and alternatives one-on-one with project team members, (3) submit written comments, and (4) submit oral comments to a court reporter. Project team members from OSM, BIA, the Hopi Tribe, the Navajo Nation, Peabody Western Coal Company, Black Mesa Pipeline, Inc., and Salt River Project were on hand to answer questions at all of the meetings. The open house format was described in the Federal Register notice and in advertisements for the meeting. In response to specific requests, some of the meetings included open question and answer sessions.

**Table 5-7 Public Meeting Locations (2007)**

<b>Date</b>	<b>Location</b>
Tuesday, January 2	Window Rock, Arizona
Wednesday, January 3	Moenkopi, Arizona Forest Lake, Arizona
Thursday, January 4	Kykotsmovi, Arizona Kayenta, Arizona
Tuesday, January 9	Leupp, Arizona Peach Springs, Arizona (12:00 noon to 3:00 pm) Kingman, Arizona
Wednesday, January 10	Winslow, Arizona Laughlin, Nevada
Thursday, January 11	Leupp, Arizona (12:00 noon to 4:00 pm) Flagstaff, Arizona

**NOTES:**

\*Except where noted, all meetings occurred between 6 pm and 9 pm.

As attendees arrived at the meetings, they were asked to sign an attendance register and were offered informational materials (i.e., Draft EIS [paper copy or compact disk] and/or Executive Summary). An OSM representative opened each meeting with introductory remarks about the intent and format of the meeting, and instructed attendees about the various ways they could provide comments on the Draft EIS, including those available at the meeting.

After introductory remarks by OSM, a video presentation was shown that summarized the project and potential impacts from the project. The video presentation was shown in the Hopi language at Moenkopi and Kykotsmovi on the Hopi Reservation, in Navajo at the meeting locations on the Navajo Reservation, and in English at the meeting locations off the reservations. Copies of the presentation were mailed to

attendees who requested them. Project displays included the following topics: project description and purpose; project components; proposed action and alternatives; and information on how to provide comments on the Draft EIS and where to provide them. The exhibit also provided instructions on how to submit comments on the Draft EIS.

Comment forms were available for those wishing to provide written comments, and a court reporter was available to record verbatim statements (in English) for those wishing to submit oral comments at the meeting. Translators were available for those wishing to make comments in Hopi or Navajo; these comments were tape recorded and later translated into English for the record. Comments were submitted at all of the meetings, with the exception of the public hearing held on the Hualapai Reservation (Table 5-8). Attendees also were invited to submit comments by mail, fax, or electronic mail by the end of the comment period.

**Table 5-8 Public Meeting Attendance and Comments**

<b>Meeting Location</b>	<b>Individuals Registered</b>	<b>Written Comments Submitted</b>	<b>Oral Comments to Court Reporter</b>	<b>Oral Comments to Translator</b>
Window Rock	25	4	7	0
Moenkopi	23	0	0	2
Forest Lake	48	4	1 identified speaker 7 unidentified speakers	
Kykotsmovi	56	6	10	1
Kayenta	54	5	5	0
Peach Springs	19	1	4 speakers identified, possibly 12 unidentified speakers	0
Leupp	77	9	13 speakers identified 7 unidentified speakers	60
Kingman	25	1	3	0
Winslow	73	1	6	5
Laughlin	22	7	1	
Leupp	63	2	14 speakers identified, possibly 14 unidentified speakers	0
Flagstaff	99	6	26	5
Total	584	46	90-131	73

The comment period ended on February 6, 2007; however, OSM received and accepted comments through the end of February 2007. On April 9, 2007, OSM notified the Hopi Tribe that OSM would consider additional comments on the Draft EIS, which it received from practitioners of Hopi traditional religion by May 11, 2007. On May 1 and 3, 2007, the Hopi Tribe was present at the Hopi Abandoned Mine Land Office to receive oral and written comments. OSM received 17,873 submittals containing comments from Federal agencies, tribal, State, and or local governments; public and private organizations; and individuals. As mentioned above, these comments were presented as statements recorded at the public meetings or in written documents (comment forms or letters) submitted at those meetings or sent to OSM by regular mail, e-mail, and fax. Of the 17,873 submittals, 17,142 submittals were form letters; that is, letters that are similar or identical in content resulting from a letter-writing campaign. Thirteen such form letters were identified.

After a one-year suspension of work on the EIS, OSM in May 2008 resumed work on the EIS. In a Federal Register published on May 23, 2008, OSM announced that the comment period on the Draft EIS was being reopened for 45 days until July 7, 2008. It did so to allow persons the opportunity to comment on the proposed project and preferred alternative, which is now Alternative B instead of Alternative A. In

its weekly Federal Register notice for EISs, USEPA listed the Draft EIS as one for which the comment period notice was being amended. As listed in Table 5-9, OSM placed legal advertisements in eight newspapers in southeast Nevada, northern Arizona, and northwest New Mexico and had radio ads aired in English and native languages on two radio stations on the Hopi and Navajo reservations. It prepared and distributed copies of a newsletter to more than 900 persons on the EIS mailing list, the Hopi villages, and the five Navajo chapter houses near the mine complex. It sent electronic mail messages to persons that submitted electronic mail comments on the Draft EIS. Lastly, OSM posted updated information on the OSM Western Region Web site at <http://www.wrcc.osmre.gov/WR/BlackMesaEIS.htm>.

**Table 5-9 Summary of Legal Notice Publications, Radio Announcements, and Press Releases (2008)**

<b>Publication/Radio Station</b>	<b>Date(s) Printed or Broadcast</b>
<b>Legal Advertisements<sup>1</sup></b>	
Navajo Times	May 29, June 5, 12, 19
Hopi Tutuveni	June 5, 12
Navajo-Hopi Observer	May 28, June 4, 11, 18
Arizona Daily Times	May 30, June 6, 13, 20
Gallup Independent	May 28, June 4, 11, 18
Laughlin Nevada Times	June 4, 11, 18, 25
Kingman Daily Miner	May 29, June 4, 11, 18
Holbrook Tribune-News	May 30, June 6, 13, 20
<b>Radio Announcements<sup>1</sup></b>	
KUYI Hopi Radio 88.1 FM	Radio ads to be run two times per day, one day per week for four weeks
KTNN Radio AM 660	Radio ads to be run two times per day, one day per week for four weeks

NOTES: <sup>1</sup> The legal notices and radio announcements were purchased to ensure that the announcements would be published or broadcast; proof of publication or broadcast is provided.

<sup>2</sup> Press releases were submitted but not purchased; the media do not have an obligation to print the release; records of print dates are not provided.

The comments in each submittal were identified, recorded, and analyzed. Responses were prepared for all substantive comments. In response to some comments, the text of the EIS was modified. A description of the comment analysis, the comments received, and the responses to those comments are provided in Volume II, Appendix M of this Final EIS.

## 5.6 DISTRIBUTION OF THE FINAL EIS

The following agencies, organizations, and individuals were notified that the Final EIS would be available in paper copy, on compact disk (CD), and on the project web site. Some requested and will receive a copy of the Final EIS for review and comment.

### ***FEDERAL***

#### ***Department of Agriculture***

Forest Service, Kaibab National Forest, Williams, Arizona  
Natural Resources Conservation Service, Phoenix, Arizona

#### ***Department of the Army***

U.S. Army Corps of Engineers, Los Angeles District,  
Regulatory Branch, Arizona Section, Tucson, Arizona

#### ***Department of the Interior***

##### ***Bureau of Indian Affairs***

Hopi Agency  
Navajo Regional Office, Gallup, New Mexico  
Navajo Regional Office, Farmington, New Mexico  
Trust Services, Washington, DC  
Truxton Canon Agency Office, Valentine, Arizona  
Western Regional Office, Phoenix, Arizona

##### ***Bureau of Land Management***

Arizona State Office, Phoenix, Arizona  
Kingman Field Office, Kingman, Arizona  
Washington, DC Office

##### ***Bureau of Reclamation***

Denver, Colorado, Office  
Phoenix Regional Office, Arizona  
Glendale Regional Office, Glendale, Arizona

##### ***Minerals Management Service***

##### ***National Park Service***

##### ***Natural Resources Library***

##### ***Office of Environmental Policy and Analysis***

Denver Region, Denver, Colorado  
Headquarters, Washington, DC  
Western Region, Oakland, California

##### ***Office of Policy Analysis, Washington, DC***

##### ***Office of the Solicitor***

Rocky Mountain Region, Lakewood, Colorado

##### ***Office of Surface Mining***

Western Regional Coordinating Center, Denver,  
Colorado

##### ***U.S. Environmental Protection Agency***

Region 9, San Francisco, California

##### ***U.S. Fish and Wildlife Service***

Arizona Ecological Services Field Office, Phoenix,  
Arizona  
Division of Environmental Quality, Arlington, Virginia  
Flagstaff Sub-Office, Flagstaff, Arizona Attn: Brenda  
Smith  
Southwest Region 2, Albuquerque, New Mexico Attn:  
Stephen Robertson  
U.S. Geological Survey  
Arizona Water Science Center, Flagstaff, Arizona  
Flagstaff, AZ Office  
Washington, DC Office

### ***Federal Legislators***

Senator John McCain  
Senator John Kyl  
Congressman Rick Renzi  
Congressman Trent Franks

### ***STATE***

#### ***State of Arizona***

Governor Janet Napolitano  
Arizona Department of Environmental Quality  
Arizona Department of Mines and Mineral  
Arizona Department of Transportation  
Arizona Department of Water Resources  
Arizona Economic Development Division  
Arizona Game and Fish Department  
Arizona State Historic Preservation Office  
Arizona State Land Department

#### ***State Legislators***

Representative Lucy Mason, District 1  
Representative Andrew M. Tobin, District 1  
Representative Albert Tom, District 2  
Representative Tom Chabin, District 2  
Representative Trish Gore, District 3  
Representative Nancy McLain, District 3  
Representative Tom Boone, District 4  
Representative Judy Burges District 4  
Representative Jack Brown, District 5  
Representative Bill Konopnicki, District 5  
Senator Tom O'Halleran, District 1  
Senator Albert Hale, District 2  
Senator Ron Gould, District 3  
Senator Jack Harper, District 4  
Senator Sylvia Allen, District 5

#### ***State of Nevada***

Nevada State Clearinghouse

### ***Tribal Governments***

The Hopi Tribe, Kykotsmobi, Arizona  
The Navajo Nation, Window Rock, Arizona  
Navajo Department of Water Resources  
Water Rights Unit  
Navajo Chapters  
Alamo Chapter Navajo Nation  
Aneth Chapter  
Baca/Prewitt Chapter  
Becenti Chapter  
Beclabito Chapter  
Birdsprings Chapter  
Black Mesa Chapter  
Blue Gap/Tachee Chapter  
Bodaway-Gap Chapter  
Breadsprings Chapter



Burnham Chapter  
 Cameron Chapter  
 Casamero Lake Chapter  
 Chichiltah Chapter  
 Chilchinbeto Chapter  
 Chinle Chapter  
 Church Rock Chapter  
 Coalmine Canyon Chapter  
 Coppermine Chapter  
 Cornfields Chapter  
 Counselor Chapter  
 Cove Chapter  
 Cove Chapter  
 Coyote Canyon Chapter  
 Crownpoint Chapter  
 Crystal Chapter  
 Dennehotso Chapter  
 Dilkon Chapter  
 Forest Lake Chapter  
 Fort Defiance Chapter  
 Gadii ahi (Cudeii) Chapter  
 Ganado Chapter  
 Greasewood Springs Chapter  
 Hardrock Chapter  
 Hogback Chapter  
 Houck Chapter  
 Huerfano Chapter  
 Indian Wells Chapter  
 Inscription House Chapter  
 Iyanbito Chapter  
 Jeddito Chapter  
 Kaibeto Chapter  
 Kayenta Chapter  
 Kinlichee Chapter  
 Klagnetoh Chapter  
 Lake Valley Chapter  
 LeChee Chapter  
 Leupp Chapter  
 Little Water Chapter  
 Low Mountain (Jeddito) Chapter  
 Lukachukai Chapter  
 Lupton Chapter  
 Manuelito Chapter  
 Many Farms  
     Mariano Lake Chapter  
     Mexican Springs Chapter  
     Nageezi Chapter  
     Nahata Dzill Chapter  
     Nahodishgish Chapter  
 Naschitti Chapter  
 Navajo Mountain Chapter  
 Nazlini Chapter  
 Nenahnezad Chapter  
 Newcomb Chapter  
 Oak/Pine Springs Chapter  
 Ojo Encino Chapter  
 Oljato Chapter  
 Pinedale Chapter  
 Piñon Chapter  
 Pueblo Pintado Chapter  
 Ramah Chapter

Red Lake #18 Chapter  
 Red Mesa Chapter  
 Red Rock Chapter  
 Red Valley Chapter  
 Rock Point Chapter  
 Rock Springs Chapter  
 Rough Rock Chapter  
 Round Rock Chapter  
 San Juan Chapter  
 Sanostee Chapter  
 Sawmill Chapter  
 Sheepsprings Chapter  
 Shiprock Chapter  
 Shonto Chapter  
 Smith Lake Chapter  
 St. Michaels Chapter  
 Standing Rock Chapter  
 Steamboat Chapter  
 Sweetwater (Tolikan) Chapter  
 Teecnospos Chapter  
 Teesto Chapter  
 Thoreau Chapter  
 Tiis Tsoh Sikaad Chapter  
 Toadlena/Two Grey Hills Chapter  
 Tohajiilee Chapter  
 Tohatchi Chapter  
 Tolani Lake Chapter  
 Tonalea Chapter  
 Torreon Chapter  
 Tsailie/Wheatfields Chapter  
 Tsayatoh Chapter  
 Tselani/Cottonwood Chapter  
 Tuba City/Toh Nanees Dizi Chapter  
 Twin Lakes Chapter  
 Upper Fruitland Chapter  
 Whippoorwill Chapter  
 Whitecone Chapter  
 Whitehorse Lake Chapter  
 Whiterock Chapter  
 Wide Ruins Chapter  
 Hualapai Tribe, Peach Springs, Arizona  
 Pahrump Paiute Tribe, Pahrump, Nevada  
 The Zuni Tribe, Zuni, New Mexico  
     Governor, Zuni Tribe

#### ***Local Governments***

Apache County Development and Community Services,  
     Arizona  
 Clark County, Nevada, Board of Supervisors  
 Coconino County, Arizona, Board of Supervisors  
 Mohave County, Arizona, Public Works Department  
 Navajo County, Arizona, Board of Supervisors  
 Yavapai County, Arizona, Board of Supervisors  
 City of Bullhead City, Arizona, City Manager Tim Ernster  
 City of Flagstaff, Arizona, Mayor Joseph Donaldson  
 City of Holbrook, Arizona, City Manager David M. Newlin  
 City of Holbrook, Arizona, Mayor Brian Smithson  
 City of Kingman, Arizona, Special Projects Administrator  
     Rob Owen  
 City of Williams, Arizona, City Manager Dennis Wells

City on Winslow, Arizona, Mayor Allen Affeldt  
Town of Laughlin, Town Manager Jackie Brady

***Project Applicants***

Peabody Western Coal Company

***Private Corporations/Organizations***

Arizona Public Service, Phoenix, Arizona  
Black Mesa Pipeline, Inc. Flagstaff, Arizona  
Brown & Brown Law Offices, Pinetop, Arizona  
Californians for Renewable Energy, Soquel, California  
Energy Minerals Law Center, Durango, Colorado  
Eros Resources Group, Denver, Colorado  
Healing Ourselves and Mother Earth, Tecopa, California  
Indigenous Support Coalition of Oregon, Eugene, Oregon  
Intrinsic, LLC, Flagstaff, Arizona  
National Resources Defense Council, Santa Monica,  
California  
Nevada Power Company, Las Vegas, Nevada  
Peabody Watch Arizona, Flagstaff, Arizona  
Salt River Project, Phoenix, Arizona  
Sierra Club Partnership Program, Flagstaff, Arizona  
Snell & Wilmer, Phoenix, Arizona  
Tucson Electric Power, Tucson, Arizona  
United Mine Workers of America, Kayenta, Arizona  
University of California, Berkeley, California  
Western States Constitutionalist Alliance, Green Valley,  
Arizona

***Individuals***

Aisyln Colgan, Oakland, California  
AL Qoyawayma, Prescott, Arizona  
Arista Larusso, Mesa, Arizona  
Ashlee Chee, Winslow, Arizona  
Berta Benally, Flagstaff, Arizona  
C. Jason Arnold, Kingman, Arizona  
Caleb Johnson, Kykotsmovi, Arizona  
Calvin Johnson, Leupp, Arizona  
Charlene Woodstock, Berkeley, California  
Chelsea Chee, Flagstaff, Arizona  
Daniel Higgins, Tucson, Arizona  
Dixie Block, Oakland, California  
Eliot Kalman, Athens, Ohio  
Enei Begaye, Flagstaff, Arizona  
Esther Honyestewa, Tuba City, Arizona  
Eugenie F. Bedonie, Pinon, Arizona  
F. BeDonie, Arizona  
Jim Honacki, Flagstaff, Arizona  
John Ford, Dolan Springs, Arizona  
John Redhouse, Albuquerque, New Mexico  
Josh Avey, Phoenix, Arizona  
Kee Hardy, Leupp, Arizona  
Ken Lamm, Flagstaff, Arizona  
Kimberly Spurr, Flagstaff, Arizona  
Laura Chee, Leupp, Arizona  
Let Tsosie Williams, Kayenta, Arizona  
Mitch Smith, Fort Mohave, Arizona  
Morning Star Gali, Oakland, California  
Alex Nikee, Gallup, New Mexico  
Paul M. Getty, Scottsdale, Arizona  
Phyllis Hogan, Flagstaff, Arizona

Resident, Peoria, Arizona  
Rita Quintana, Denver, Colorado  
Sara Hayes, Long Beach, California  
Shonri Begay, Flagstaff, Arizona  
Stephen Canning, Port Orford, Oregon  
Thomas Sisk, Flagstaff, Arizona  
Tom Viator, Phoenix, Arizona  
Valencia Herder, Kykotsmovi, Arizona  
Vincent H. Yazzie, Flagstaff, Arizona  
Wahleah Johns, Flagstaff, Arizona