

BIA/DOT NEPA Procedures

- NEPA is NEPA – same for most federal agencies. BIA/DOT mostly mirrors FHWA except no two-tiered CatEx list
- Agency Superintendent is the signatory authority (signs EA & CatEx and most importantly, grants R/W)
- BIA/DOT processes IRR generated projects only
- Regional EQS Office and Agency process outside applicant requests involving NEPA

Environmental Quality Services Branch

- **Amy Heuslein**
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- BIA-Western Regional Office
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AGENCY

- SUPERINTENDENT (INDIAN AGENT)
- DELEGATION OF AUTHORITY
 - Signatory authority delegated from Interior Secretary
 - Signs most NEPA documents (usually not Record Of Decision for EIS)

AUTHORITIES/MANDATES

- CONSTITUTION
- TREATIES
- 5 USC
- 25 CFR INDIANS



atives, according to the Rules and Limitations prescribed in the Case of a Bill.

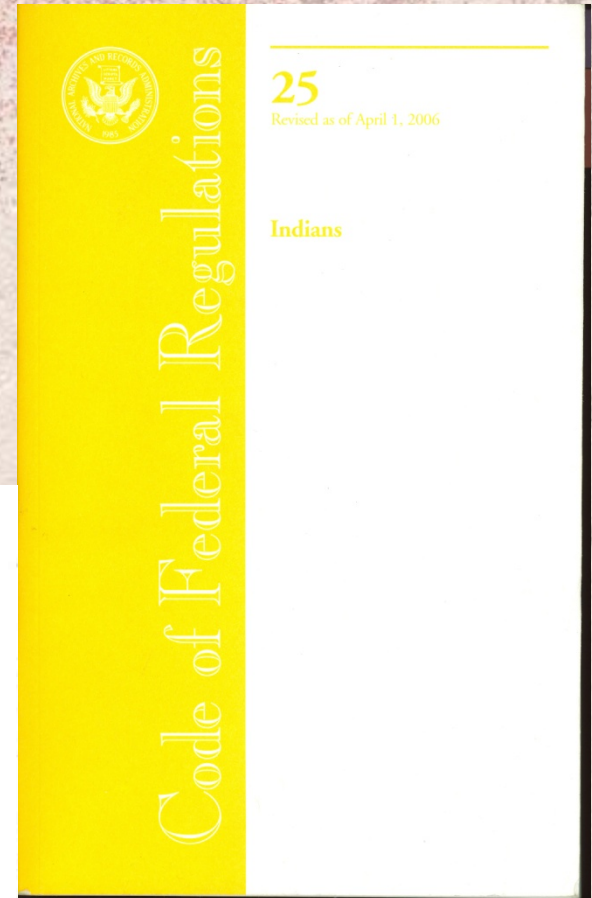
Section. 8. The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defence and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States;

To borrow Money on the credit of the United States;

To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes;

To establish an uniform Rule of Naturalization, and uniform Laws on the subject of Bankruptcies throughout the United States;

To coin Money, regulate the Value thereof, and of foreign Coin, and fix the Standard of Weights and Measures;



NEWS!

BIA NEPA Handbook revised and re-issued in August 2012

**Indian Affairs National Environmental Policy Act
(NEPA) Guidebook
59 IAM 3-H**

Available at:

<http://www.bia.gov/WhatWeDo/Knowledge/Directives/Handbooks/index.htm>

And...

The Department of the Interior's NEPA regulations were codified at 43 CFR Part 46 and published in the Federal Register October 15, 2008

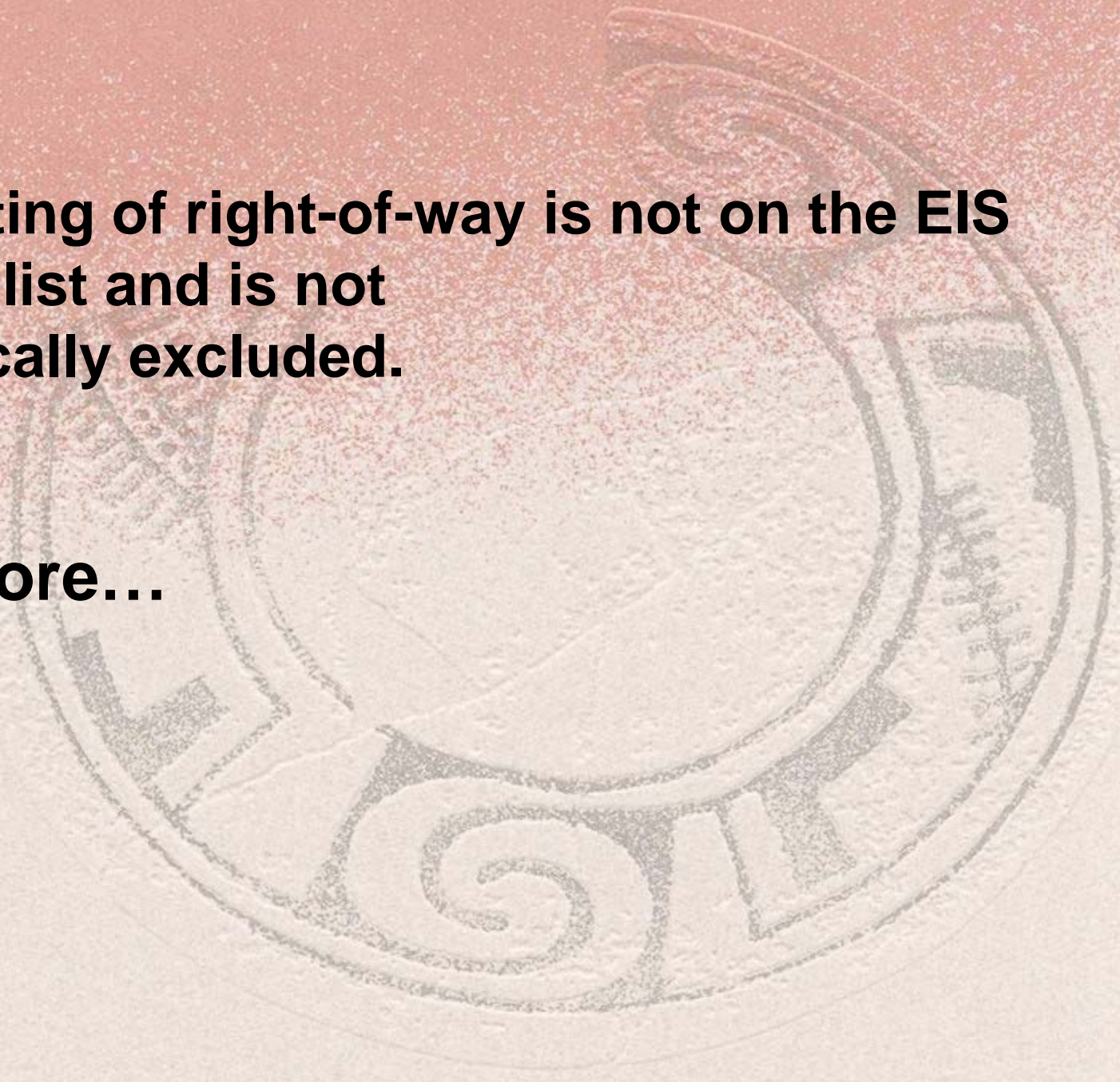
NEPA

- HANDBOOK-DOI AND BIA MANUAL
 - All the usual NEPA issues/items with emphasis on tribal specific issues such as sovereignty, resource use patterns, treaty rights (hunting & fishing rights in the northwest), TCPs, EO 3175, etc.

“AN EA MUST BE PREPARED FOR ALL BIA ACTIONS, EXCEPT THOSE COVERED UNDER 3.2 (EIS list) AND 3.3A (CatEx list)”

So, granting of right-of-way is not on the EIS required list and is not categorically excluded.

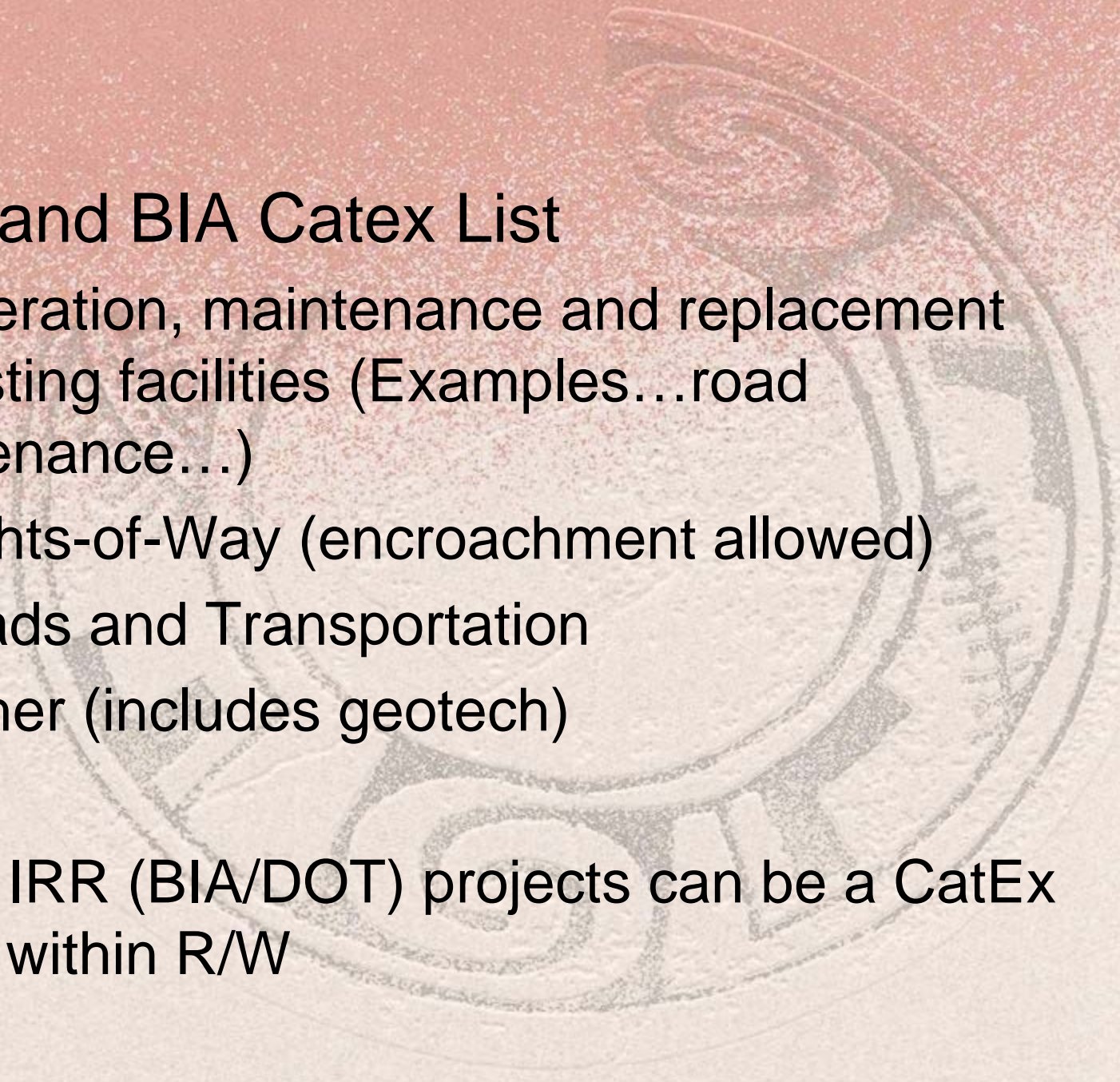
Therefore...



***The granting of R/W requires that an EA be prepared**

This is the number one take home message. Best if all work can be limited to the existing R/W, then for other agencies, there likely is not a federal action before the Superintendent, therefore, no BIA NEPA.

If only a minor TCE is required, no NEPA document is required because only granting “temporary entrance”. Superintendent can do this with a letter and/or a CatEx.

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- Interior and BIA Catex List
 - A. Operation, maintenance and replacement of existing facilities (Examples...road maintenance...)
 - F. Rights-of-Way (encroachment allowed)
 - L. Roads and Transportation
 - M. Other (includes geotech)

Most all IRR (BIA/DOT) projects can be a CatEx if stay within R/W

Encroachment Permits:

Needed only for roads that BIA has right-of-way on.

Stacey Begay – R/W Engineer

(602) 379-6782 for application.

SCOPING/PUBLIC MEETINGS ON INDIAN LAND

- “Think outside the box”
 - Employ unconventional methods to reach the intended audience. Federal Register Notice or ad in prominent local newspaper not effective.
 - Use local Tribal/Native newspapers, radio stations, and
 - Handbills posted in gathering locations or delivered to the door.
 - As an agenda item at district/chapter/village level meetings.
 - Questionnaires.

When to do genuine scoping?

- Any EA or EIS
- When local residents are involved or impacted (i.e. chip seal in a subdivision)
- Where true opportunities for design alternatives exist (such as native designs on a bridge or other structure)
- When a project might be controversial
- When the preparers don't have a good handle on what is going on locally (e.g. need for cattle passes along Low Mountain Road)
- To involve the public and garner support

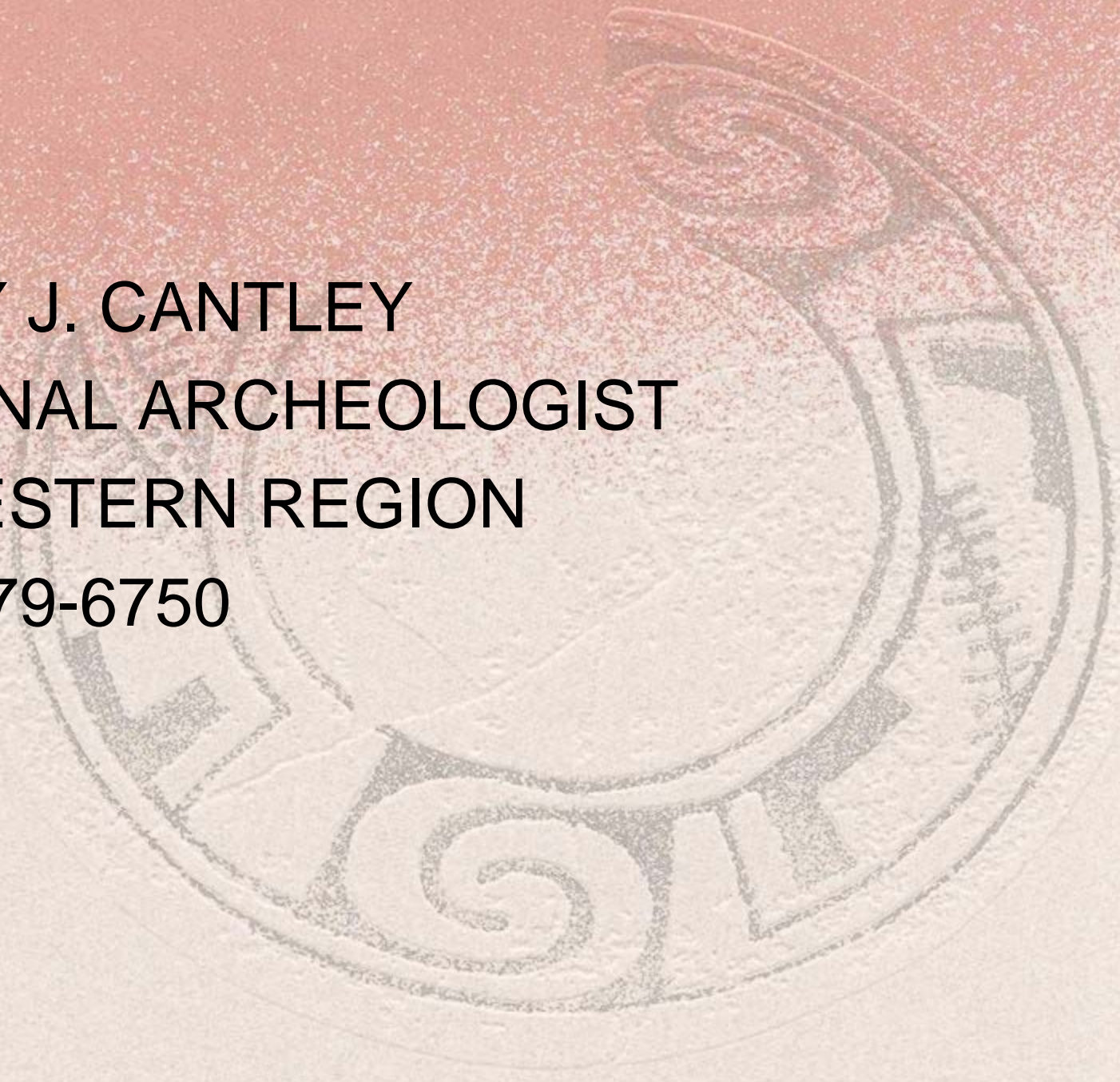
SECTION 106/OUTSIDE R/W

- ESTABLISH LEAD CONSULTING PARTY
- TRIBES and BIA are Signatory Consulting Parties for all ADOT projects on Tribe's land that require new R/W acquisition.
 - Case by case within existing R/W, depending on whether NEPA/Arch, etc. already done.

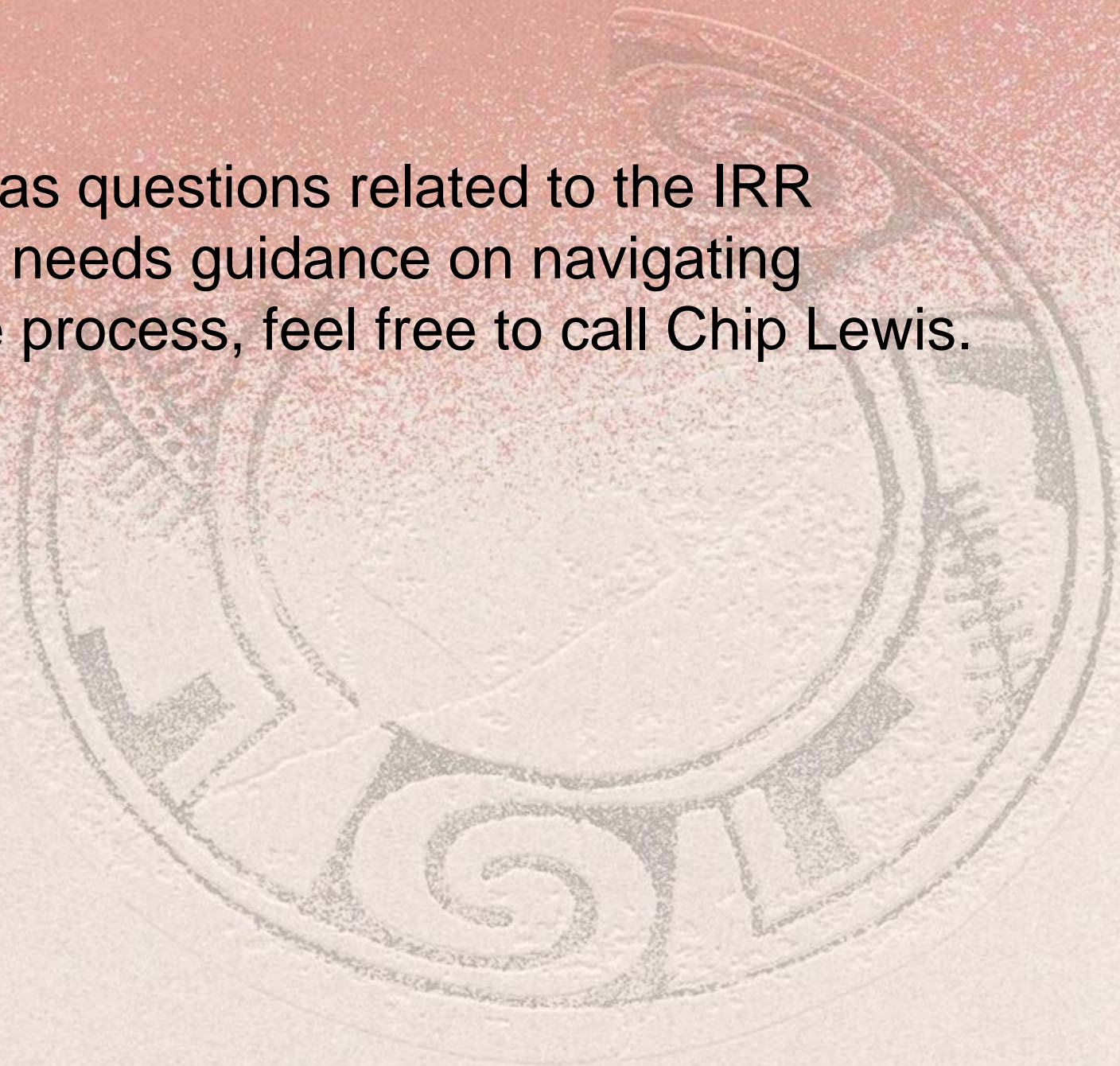
INVENTORY/SURVEY

- CONTACT BIA FOR ARPA CONSULTATION (NON-COLLECTION)
- CONTACT TRIBE FOR ACCESS PERMIT
- REPORT SENT TO TRIBE AND BIA
- CONSULT WITH SHPO/THPO
 - WMAT
 - NAVAJO
 - SAN CARLOS
 - HUALAPAI
 - GRIC
 - TON
 - Others are applying

- GARRY J. CANTLEY
- REGIONAL ARCHEOLOGIST
- BIA-WESTERN REGION
- (602) 379-6750



If anyone has questions related to the IRR program or needs guidance on navigating through the process, feel free to call Chip Lewis.



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