

Memorandum of Understanding

Between the

Bureau of Land Management, Department of the Interior

and the

Nuclear Regulatory Commission, an Independent Agency

I. Introduction

This agreement sets forth the roles, responsibilities and procedures agreed to by the Bureau of Land Management, Department of the Interior (BLM), and the Nuclear Regulatory Commission (NRC), an independent agency, with respect to preparing environmental assessments (EAs) or environmental impact statements (EISs) for uranium milling facilities activities on public land and mineral estates under the administration of the BLM.

The cooperating agency relationship established through this Memorandum of Understanding (MOU) shall be governed by all applicable statutes, regulations, and policy; including the NRC's regulations in 10 CFR Part 51 and BLM's regulations in [insert citation].

II. Purpose

The purposes of this MOU are:

- A. To provide a framework for cooperation and coordination between the BLM and NRC that will ensure successful completion of the site specific EA or EIS in a timely, efficient, and thorough manner.
- B. To describe respective responsibilities, jurisdictional authority, and expertise of each of the parties in the planning process.
- C. To provide notice of deliverables and schedules that will be negotiated for site specific EA or EIS with the BLM field office and NRC staff in Attachments A, B and C.

III. Authorities for the MOU

- A. BLM exercises authorities delegated from the Secretary of the Interior for administering mining claims and implementing regulations including:
 1. Mining Law of 1872, 30 U.S.C. §§ 21- 42 (Mining Law)
 2. Federal Land Policy and Management Act, 43 U.S.C. §§ 1701-1785 (FLPMA)
 3. 43 CFR Chapter II, Part 3809 and Parts 3830-3839
 4. National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

- B. The authorities of the NRC to enter into and engage in the activities described within this MOU include, but are not limited to:
1. The Atomic Energy Act (42 U.S.C. 2011 et seq.).
 2. Nuclear Regulatory Commission regulations (10 CFR 1 et seq.)
 3. National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

IV. Roles and Responsibilities.

A. Bureau of Land Management Responsibilities.

BLM's responsibilities under these laws include, but are not limited to:

Receiving a Plan of Operations, making or causing to be made, an (EA or EIS) as appropriate to fulfill NEPA Section 102 responsibilities, and issuing a record of decision that provides for the terms and conditions of approval of the submitted Plan of Operations. A reclamation bond, acceptable to BLM, is required before operations may begin. Such bond is set for the full cost of reclamation as if performed by a third party contractor. BLM's environmental review regulations implementing NEPA Section 102(2) are contained in [insert citation].

B. Nuclear Regulatory Commission Responsibilities.

NRC's responsibilities under these laws include, but are not limited to:

Evaluating NRC license applications, amendments or renewals for uranium milling facilities, which include those using In-Situ Leach Uranium Recovery processes. The NRC evaluation process can include preparation of environmental assessments or environmental impact statements to fulfill NEPA Section 102 responsibilities. NRC may also perform a Safety Evaluation Report (SER) as part of the licensing review process and require financial assurance from the licensee. NRC's environmental review regulations implementing NEPA Section 102(2) are contained in 10 CFR Part 51.

C. Coordination of Parties

The BLM and NRC agree to coordinate on any Plans of Operations and/or License applications received for uranium milling facilities or material licenses on public lands and reserved federal mineral estates under non-public lands in the United States.

If the activities on BLM administered land or mineral estates requires an NRC license; the NRC will be the lead agency and BLM will be the cooperating agency, for the preparation and processing of the necessary EA or EIS.

If a NRC license is not required for the activities on BLM administrated land or mineral estates, BLM will be the lead agency, and NRC will be the cooperating agency (if necessary) for the preparation and processing of the EA or EIS..

A Record of Decision can be prepared by BLM. NRC can incorporate BLM's Record of Decision by reference into subsequent NRC EA or EIS and licensing decisions.

1. The Parties agree to participate in this planning process in good faith and make all reasonable efforts to resolve disagreements.
2. The Parties agree to negotiate site specific roles and responsibilities for the cooperating agency (as modeled in Attachment A), schedule (as modeled in Attachment B) and agency contact information, (as modeled in Attachment C). The site specific documents can be signed by the BLM field office representative and the [insert level of NRC signature] or their designee. Both parties agree to comply with dates for (EA or EIS) milestones and timeframes for reviews and submissions.
3. Each Party agrees to fund its own expenses associated with the site specific (EA or EIS) process.

D. Lead Agency.

1. The lead agency retains final responsibility for the content of all the Draft (EA or EIS) and the Final (EA or EIS). The lead agency responsibilities include determining the purpose of and need for the (EA or EIS); selecting alternatives for analysis; identifying effects of the proposed alternatives; making recommendations on the proposed action; and evaluating appropriate mitigation measures. In meeting these responsibilities, the lead agency will follow all applicable statutory and regulatory requirements.
2. To the fullest extent consistent with its responsibility the lead agency will utilize the comments, recommendations, data, and/or analyses provided by the cooperating agency in the (EA or EIS) process, giving particular weight to those topics on which cooperating agency is acknowledged to possess special expertise.
3. The lead agency will provide the cooperating agency with copies of documents underlying the (EA or EIS) relevant to the cooperating agency's responsibilities, including technical reports, data, analyses, comments received, working drafts related to environmental reviews, and draft and final (EA or EIS), subject to the lead agency's information handling requirements.

E. Cooperating Agency.

1. The Cooperating Agency can have jurisdiction by law over specific licensing or permitting activities, or be recognized for having areas of special expertise.
2. The Cooperating Agency will work with the lead agency to mutually coordinate, prioritize, identify and manage tasks to provide information, comments, and technical expertise to the lead agency regarding specific topics and activities in a site specific (EA or EIS). The Parties will identify staff to implement and coordinate these activities. The staff will reach consensus on the deliverables (if any) and delivery dates; anticipated products and periods of performance that will be negotiated in a site specific document using the models in Attachment A and B. The cooperating

agency will provide technical analyses or data sets according to the negotiated schedule.

3. Within the areas of their special expertise, the cooperating may participate in any of the activities identified in Attachment A. These activities include, but are not limited to: identifying data needs, identifying effects of alternatives, identifying effects of cumulative impacts, suggesting mitigation measures, and providing written comments on working drafts of the Draft (EA or EIS) and Final (EA or EIS) and supporting documents.

V. Other Provisions

- A. Authorities not altered. Nothing in this MOU alters, limits, or supersedes the authorities and responsibilities of any Party on any matter within their respective jurisdictions. Nothing in this MOU shall require any of the Parties to perform beyond its respective authority.
- B. Financial obligations. Nothing in this MOU shall require any of the Parties to assume any obligation or expend any sum in excess of authorization and appropriations available.
- C. Immunity and Defenses Retained. Each Party retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOU.
- D. Conflict of interest. The Parties agree not to utilize any individual for purposes of plan development, environmental analysis, or NRC or BLM representation, including officials, employees, or third party contractors, having a financial interest in the outcome of the (EA or EIS).
- E. Documenting disagreement or inconsistency. Where the BLM and the NRC disagree on significant elements of the (EA or EIS) (such as designation of the alternatives to be analyzed or analysis of effects), and these disagreements cannot be resolved, the non-lead agency may document its views and submit them as comments to the Draft (EA or EIS) and the Proposed/Final (EA or EIS).
- F. Management of information. The Parties acknowledges that all data and information provided will become part of the NRC's and BLM's official record and will be available for public review, except as restricted by the Freedom of Information Act and/or the Privacy Act. The Parties agree that internal working draft documents for the development of the (EA or EIS) will not be made available for review by individuals or entities other than the Parties to this MOU. All draft documents are part of the official record and may only be released by the Party to the extent allowed by the Freedom of Information Act and/or the Privacy Act. The Parties agree that in order to allow full and frank discussion of preliminary analysis and recommendations, meetings to review such pre-decisional and deliberative documents will not be open to the public.
- G. Responsibility for decision making While the Parties agree to make reasonable efforts to resolve procedural and substantive disagreement, they acknowledge that the lead agency retains final responsibility for the decisions identified in the (EA or EIS).

H. Coordination with federal contractors. The Parties agree to communicate with a federal contractor through the federal agency representative responsible for administering the contract.

VI. Agency Representatives

Each Party will designate a representative and alternate representative, as described in Attachment C, to ensure coordination between the BLM and NRC during the planning process for site-specific EAs or EISs. Each Party may change its representative at will by providing written notice to the other Party.

VII. Administration of the MOU

- A. Approval. This MOU becomes effective upon signature by the authorized officials of all the Parties.
- B. Amendment. This MOU may be amended through written agreement of all signatories.
- C. Termination. This agreement will remain in effect unless it is amended or terminated. This agreement may be terminated by one agency by giving 120 days written notice of the agency's intent to terminate to the other agency.
- D. Entirety of Agreement. This MOU, including model Attachments A, B, and C, consisting of eight (8) pages, will be subsequently supplemented by site-specific attachments that will be negotiated between the BLM field office and NRC staff.

VIII. Effective Date of this Memorandum.

This agreement will take effect from the last date of signature.

Director _____ Date _____
 Bureau of Land Management

[EDO or FSME] _____ Date _____
 Nuclear Regulatory Commission

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Attachment A

I. Areas of Special Expertise and Jurisdiction by Law

A. [insert cooperating agency’s areas of special expertise and jurisdiction by law.]

II. Opportunities for Cooperating Agency Participation in the (EA or EIS)

	(EA or EIS) Stage	Potential Activities of Cooperating Agencies (CAs) within their acknowledged areas of expertise
1	Conduct scoping and identify issues	Identify significant issues; identify relevant local and regional organizations and interest groups.
2	Collect inventory data	Identify data needs; provide data and technical analyses within the CA’s expertise.
3	Formulate alternatives.	Suggest alternatives to resolve issues. Decision to select alternatives for analysis is reserved to the lead agency.
4	Estimate effects of alternatives	Provide effects analysis within the CA’s expertise; identify direct, indirect, and cumulative effects within the CA’s expertise; suggest mitigation measures for adverse effects.
5	Select the preliminary recommendation regarding the proposed action; issue Draft (EA or EIS)	Collaborate with the lead agency project manager in evaluating alternatives and in developing criteria for selecting the preliminary recommendation regarding the proposed action; provide input on Preliminary Draft (EA or EIS). The CAs may provide written, public comments on draft if desired. Decision to select the preliminary recommendation is reserved to the lead agency.
6	Respond to comments	Review comments within the CA’s expertise and assist in preparing responses, as appropriate.
7	Select the final recommendation regarding the proposed action; issue Final (EA or EIS)	Action reserved to the lead agency. CAs may provide written, public comments if desired.

Attachment B

Schedule

	Potential Activities of Cooperating Agencies (CAs) within their acknowledged areas of expertise	Input Needed By
1	Provide data and information identified under Schedule A to the lead agency	Within 30 calendar days of signing by NRC and BLM representatives of this schedule
2	Provide review comments on preliminary draft (EA or EIS) and attend draft (EA or EIS) review meeting	Within 15 business days of receiving preliminary draft (EA or EIS) for review
3	Provide comments on draft (EA or EIS), as appropriate	Within 30 calendar days of publication of draft (EA or EIS) for public comment
4	Provide review comments on draft compilation of public comment on draft (EA or EIS) and draft responses to comment	Within 10 business days of close of public comment period on draft (EA or EIS)
5	Provide review comments on preliminary final (EA or EIS) and attend final (EA or EIS) review meeting	Within 15 business days of receiving preliminary final (EA or EIS) for review

Attachment C

Agency Representatives

Nuclear Regulatory Commission

Primary Representative: [insert name], Project Manager
(301) 415-XXXX

Backup Representative: [insert name], Branch Chief
(301) 415-XXXX

BLM

Primary Representative: [insert name, title and phone number]

Backup Representative: [insert name, title and phone number]