



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

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IN REPLY REFER TO:
3809 (930)P

October 22, 1999

EMS TRANSMISSION - 10/25/1999
Instruction Memorandum No. NM-2000-005
Expires: 9/30/2001

To: All FO Managers (except Tulsa)

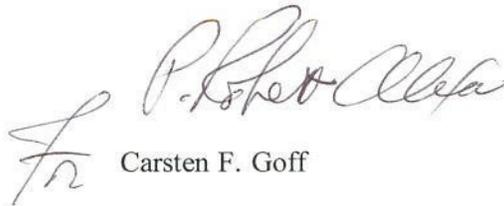
From: DSD, Resource Planning, Use and Protection

Subject: Memorandum of Understanding with the New Mexico Abandoned Mine Land Bureau

The subject Memorandum of Understanding (MOU) is attached. It establishes cooperative procedures for reclamation of abandoned mine sites on Bureau land. It replaces one that expired in 1995.

The MOU allows the State the right of entry across Bureau land for project identification, assessment and development and free access to land and mineral records of project areas. The New Mexico (NM) Field Office personnel and the NM State Office Public Room personnel should become familiar with this MOU.

Any questions should be directed to Bill Dalness at the the New Mexico State Office (NM 930). His phone number is (505) 438-7405.


Carsten F. Goff

1 Attachment
MOU (4 pp)

Distribution

WO (320), LS, Rm. 501
RS-100
NM (950, DSD)
NM (912, Chief OEA)
NM (930, Bill Dalness)

**EMNRD JPA NO. 00-521.06-029
BLM MOU NO. 1422G910-MOU-0001**

**MEMORANDUM OF UNDERSTANDING/JOINT POWERS AGREEMENT
BETWEEN THE
NEW MEXICO ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT
AND THE
US BUREAU OF LAND MANAGEMENT
NEW MEXICO STATE OFFICE
CONCERNING ABANDONED MINE LAND RECLAMATION**

This Memorandum of Understanding/Joint Powers Agreement, hereafter referred to as the MOU/JPA, is entered into by the New Mexico Energy, Minerals and Natural Resources Department, Mining and Minerals Division (EMNRD) and the United States Bureau of Land Management, New Mexico State Office (BLM) pursuant to the Joint Powers Agreements Act, Sections 11-1-1, et seq., NMSA 1978 and Section 307(b) of the Federal Land Policy and Management Act, 43 USC 1737, et seq. This MOU/JPA replaces one that expired on August 31, 1995.

Pursuant to Section 69-25B-6, NMSA 1978, EMNRD is responsible for the abatement of hazards to public health and safety from the effects of past mining in New Mexico.

BLM is a Federal surface management agency in New Mexico with abandoned mine sites on land that it administers. Also, BLM maintains mining claim, mineral lease, and land records for Federal lands in New Mexico.

A. PURPOSE

This MOU/JPA establishes cooperative procedures to accomplish reclamation of abandoned mine sites on land administered by the BLM in accordance with the Surface Mining Control and Reclamation Act, 30 USC 1201, et seq. (SMCRA) and to facilitate access to Federal land and mineral records necessary for this purpose.

For EMNRD, activities referenced in this document are performed by the Abandoned Mine Land Bureau of the Mining Minerals Division. For BLM, on-the-ground activities are performed by a BLM Field Office and overall program coordination and land and mineral records are at the BLM State Office.

B. BLM SHALL:

1. Conduct reconnaissance on land it administers to locate and describe abandoned mine sites and mine features.
2. Rank appropriate candidates for mine reclamation and submit potential reclamation projects to EMNRD.
3. Grant to EMNRD right of entry across BLM land for access to candidate sites and project areas.
4. Allow EMNRD access to Federal land and mineral records and, as necessary, perform record searches of mineral and surface interests of candidate sites and project areas.
5. Provide copies, free of charge, of Federal land and mineral records of candidate sites and project areas to EMNRD.
6. Upon request, provide EMNRD with information necessary for them to conduct an environmental assessment of each project.
7. Upon request, provide EMNRD with information necessary for them to conduct the necessary cultural/archeological surveys of each project.
8. Review all environmental assessments for projects that include BLM land.
9. Review all cultural/archeological survey reports for projects that include BLM land and consult with the State Historic Preservation Office (SHPO) to ensure compliance with the National Historic Preservation Act. If the project encompasses a combination of BLM and private land, EMNRD will consult with the BLM archaeologist regarding which party should act as the lead agency for the Section 106 consultation with SHPO (see EMNRD 6).
10. Assume maintenance responsibility of non-coal mine sites on BLM land reclaimed by EMNRD.
11. Designate a contact person through which all project coordination will be conducted on behalf of BLM.

c. EMNRD SHALL:

1. Review projects submitted by BLM and select projects for reclamation in accordance with the priority criteria of SMCRA.
2. Notify BLM of the projects selected that include BLM land.

3. Obtain necessary funding for projects and procure a contractor for the reclamation work.
4. Develop the reclamation design package for each project in consultation with the BLM.
5. Conduct or cause to be conducted an environmental assessment of each project.
6. Conduct or cause to be conducted all necessary cultural/archeological surveys for each project, using BLM-permitted archaeologists and BLM standards for site recordation and report guidelines, and submit report of results to BLM for review. If the BLM archaeologist and EMNRD agree that EMNRD should do the Section 106 consultation on a project; EMNRD will write the consultation letter and send it to the BLM archaeologist for signature of concurrence and following that, submit the letter and report to SHPO.
7. Provide on-site project management and project quality control.
8. Conduct a final inspection of each project in conjunction with BLM prior to final payment to the contractor.
9. Designate a contact person through which all project coordination will be conducted on behalf of EMNRD.

D. DISAGREEMENTS

When there is a disagreement between agencies as to any procedure under this MOU/JPA, negotiations will be undertaken to resolve the disagreement, including involvement of the signatories of this MOU/JPA, if necessary. These negotiations will not restrict an agency from taking action in accordance with its authority.

E. EXCEPTIONS

An exception may be allowed to any part of this MOU/JPA if approved in writing by the signatories of the agencies involved.

F. LIMITATIONS AND APPROPRIATIONS

1. Nothing in this MOU/JPA shall be construed as increasing, limiting, or modifying, in any way, the statutory or regulatory authorities and responsibilities of EMNRD or BLM or bind them to perform beyond their respective authorities, or require any agency to assume or expend any sum of money in excess of available appropriations.

2. The terms of this MOU/JPA are contingent upon sufficient appropriations and authorization by the New Mexico State Legislature, U.S. Congress, and the U.S. Department of Interior for the performance hereof. If sufficient appropriations and authorization are not made, this MOU/JPA shall terminate upon written notice from the affected agency to the other agencies in accordance with Section H.

G. AMENDMENT OR CHANGE

This MOU/JPA shall not be altered, changed, or amended except by instrument in writing executed by all parties hereto.

H. EFFECTIVE DATE AND TERMINATION

This MOU/JPA shall become effective upon signatures of the parties hereto and approval of the Secretary of the New Mexico Department of Finance and Administration and remain in force unless terminated by any agency through written notice to the other agencies 60 days prior to the intended date of termination. By such termination, no party may nullify or avoid any obligation required to be performed prior to termination.

IN WITNESS WHEREOF, the parties have hereinbelow set their hand.

FOR:
**STATE OF NEW MEXICO,
ENERGY, MINERALS, AND
NATURAL RESOURCES DEPARTMENT**

FOR:
**U.S. BUREAU OF LAND
MANAGEMENT,
NEW MEXICO STATE OFFICE**

By: /s/ Jennifer A. Salisbury
Cabinet Secretary

By: /s/ Michelle J. Chavez
State Director

Date: 9/15/99

Date: 8/30/99

APPROVED BY:
**STATE OF NEW MEXICO,
DEPARTMENT OF FINANCE
AND ADMINISTRATION**

By: /s/ John Kormanik (for)
Cabinet Secretary

Date: 9/16/99