
**MEMORANDUM OF UNDERSTANDING
BETWEEN *(insert company name)*, AND
THE U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT**

**FOR THE PURPOSE OF PREPARING
AN ENVIRONMENTAL ASSESSMENT
FOR THE *(insert project name)* PROJECT**

I. BACKGROUND AND PURPOSE

The U.S. Department of the Interior, Bureau of Land Management (BLM) has determined that an environmental assessment (EA) will be prepared to analyze the potential environmental impacts associated with *(insert company name)* (hereinafter referred to as the Company/Companies) proposal *(insert brief overview of the project)* within the *(insert project area)*. The project is called the *(insert project name)* Project. The *(insert project name)* area encompasses *(insert legal description)*, and is located in the *(insert field office name)* Field Office.

The EA must comply with all provisions of NEPA, including the Council on Environmental Quality (CEQ) regulations, 40 CFR Part 1500-1508; Department of Interior requirements (DM 516); the BLM NEPA Handbook (H-1790-1); the Endangered Species Act (16 U.S.C. Section 1531, et seq.) (ESA) and its implementing regulations at 50 CFR 402; and the National Historic Preservation Act (16 U.S.C. Section 470, et seq.) (NHPA) and its implementing regulations at 43 CFR Part 800.

The Company has decided to prepare the EA for their proposed project. The BLM shall assume complete final control over the scope, content, and the determination of adequacy of the document.

It is the purpose of this Memorandum of Understanding (MOU) to establish an agreement between the Company and the BLM regarding the procedures to be followed and the conditions to be adhered to in preparation of the EA on the Company's project.

It is understood that at any time during the preparation and completion of the EA, if the analysis of potential impacts of the project so warrants, the BLM may determine to upgrade the document to an Environmental Impact Statement (EIS), subject to a new MOU.

II. GENERAL PROVISIONS

The BLM and the Company/Companies intend to work together in a professional and productive manner, under the National Environmental Policy Act of 1969, as amended (NEPA), and all other applicable federal and state laws. Both the BLM and the Company/Companies are committed to maintaining the integrity of the NEPA process. As the lead agency, the BLM is responsible for assuring compliance with the requirements of NEPA. The BLM will ensure that the *(insert project name)* Project conforms to the terms and provisions of the *(insert field office name)* RMP, including any revisions thereof. See 43 C.F.R. § 1610.5-3(a).

[Insert if it is known that a contractor will be used] To facilitate timely and efficient completion of required environmental documents, the Company/Companies has/have agreed to contract the EA preparation with a consulting firm selected by the Company/Companies. The Contractor will conduct the environmental analysis process and to prepare a preliminary and final EA for BLM review at the Company's/Companies' expense.

Should the Company/Companies agrees/agree it/they will retain a Contractor/s to produce analyses and a document meeting BLM standards, the Contractor/s will execute a disclosure statement specifying that they have no financial or other interest in the outcome of the *(insert project name)* EA as required by 40 C.F.R. § 1506.5(c).

III. NEPA COMPLIANCE

The EA for the (*insert project name*) Project will be prepared in accordance with NEPA (42 USCA §§ 4321 – 4370e) and in compliance with all applicable regulations and laws passed subsequently, including Council on Environmental Quality (CEQ) regulations 40 Code of Federal Regulations (C.F.R.) §§ 1500-1508, United States Department of the Interior (DOI) regulations at 43 C.F.R. Part 46, DOI guidance (Department Manual 516, Environmental Quality (USDI 2007)), the BLM NEPA Handbook (H-1790-1) and applicable guidance.

As the lead agency, the BLM is responsible for analyses and documents that conform to the NEPA, CEQ regulations, and other pertinent federal laws and regulations.

The EA will assess the potential environmental impacts of the Company's/Companies' Proposed Action, the no action alternative, and a range of reasonable alternatives selected by the BLM, and will serve to inform the decision-making official and the public. The project components that must be analyzed in the (*insert project name*) EA shall be consistent with those identified in the BLM NEPA Handbook (H-1790-1).

IV. AUTHORITIES

This MOU is entered into under the following authorities:

- A. The National Environmental Policy Act of 1969, as amended (Pub. L. No. 91-190, 42 U.S.C. §§ 4312-4370e);
- B. The Federal Land Policy and Management Act of 1976 (Pub. L. No. 94-579, 43 U.S.C. §§ 1701-1784); and
- C. (*insert other relevant authorities*) – *i.e.* The Mineral Leasing Act of 1920, as amended (30 U.S.C. §§ 181-263)).

V. RESPONSIBILITIES

A. BLM Rights and Responsibilities

1. The BLM will be the lead federal agency in the preparation of the EA and will be responsible for compliance with the requirements of NEPA, BLM and CEQ regulations, and other applicable federal laws and regulations. The BLM will be responsible for completion of Section 7 consultation with the U.S. Fish and Wildlife Service in compliance with the ESA. Additionally, BLM will complete any necessary consultation with the State Historic Preservation Office for cultural and historic properties in compliance with the NHPA.
2. The Field Manager will designate for the BLM a sole point of contact for all matters related to the preparation of the EA by the Company/Companies and/or Contractor.
3. The BLM intends to keep the Company/Companies informed and engaged throughout the preparation of the (*insert project name*) EA. The BLM will consult with and keep the Company/Companies informed on the progress of the EA, as well as any data needs or changes, on at least a monthly basis.
4. The BLM will invite the Company/Companies and the Contractor to attend meetings with federal, state, regional, and local agencies and other groups throughout the EA/NEPA process as appropriate under NEPA and any pertinent regulations. The BLM will ensure that the Company/Companies are kept informed of issues, pending meetings, and outcomes of any meetings held so that the Company/Companies can ensure that technical information is accurate and complete.
5. The BLM will provide oversight of the (*insert project name*) EA preparation process to verify that the Company/Companies and/or Contractor considers existing data, environmental descriptions, and

analysis available and that work already completed by the BLM is not duplicated unless BLM determines that the existing work is not adequate for the purposes of the EA. The BLM will assess whether existing work must be modified or redone. The BLM requires that the Company/Companies and/or Contractor provide adequate copies of all maps, reports, and draft documents to allow for a timely review. The EA Contractor, in consultation and coordination with BLM, shall make appropriate changes to the EA following BLM's receipt and review of public comments on the draft EA. The BLM will be solely responsible for all decisions related to the analysis prepared in connection with the *(insert project name)* EA.

6. The BLM will consult with the Company/Companies on the project description as needed, particularly during impact analysis, to assist in improving the project description to avoid, mitigate, or otherwise address adverse impacts. The BLM will direct how the existing data, environmental descriptions, and analyses available from all sources including the BLM will be considered.
7. The BLM will be responsible for determining frequency, location, format, and content of public involvement. The Contractor, at BLM's direction, will be responsible for administrative support and logistical arrangements for potential public scoping meetings. The BLM will receive public scoping comments and direct the Contractor's actions with regard to the received comments.
8. When requested to do so by the Company/Companies, the BLM will treat specific data provided by the Company/Companies as confidential and proprietary to the extent permitted by law. This responsibility extends to both internal and Contractor use of the information. In the event that any confidential or proprietary information is required by law to be released by BLM, the Company/Companies shall be provided written notice of any such proposed release in advance of such release.
9. The BLM will independently evaluate and take responsibility for the contents of the *(insert project name)* EA prior to its release or approval as required by 40 C.F.R. § 1506.5(a). The BLM is responsible for complying with NEPA procedures and implementing regulations including, but not limited to: document contents, administrative record (including documentation of rationale and supporting information), public review of the *(insert project name)* EA, and required decision documentation. A Contractor shall assist with these tasks as directed by the BLM, should they be retained by the Company/Companies. The BLM shall ensure that the *(insert project name)* EA presents a range of reasonable alternatives and includes relevant environmental/social/economic issues and impacts, including cumulative impacts. The BLM will provide a mailing list to the Contractor for distribution of the *(insert project name)* EA to the public.
10. The BLM is responsible for all costs associated with the preparation, reproduction, and mailing of the Finding of No Significant Impact (FONSI) and Decision Record (DR).

B. The Company's/Companies' Rights and Responsibilities

1. The Company/Companies will appoint a primary contact person to serve as contact for all general matters relating to the preparation of the EA. *(if more than one company Each Company will also appoint a primary contact person for the BLM to communicate with regarding matters specific to individual companies.)*
2. The Company/Companies' will be responsible for providing an electronic copy of the preliminary and final EA documents in a PDF format or a medium acceptable to the BLM. The Company/Companies (and the Contractor) will assist BLM in fulfilling its responsibilities for the requirements of NEPA, CEQ regulations, and other pertinent federal laws and regulations.
3. The Company/Companies may retain a Contractor for preparation of all or a portion of the EA. The EA Contractor shall not have any financial or economic interest in the planning, design, or operation of the project.

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- a. The Company/Companies will be responsible for developing and executing a contract with the Contractor. The contract between the Company/Companies and the Contractor will require timely completion of all work activities pursuant to this MOU and the schedule attached as Exhibit 1.
 - b. The Company/Companies will be responsible for all costs and any continuing costs incurred by that Contractor until terminated by the Company/Companies, other than as set forth in Section V.A.11. All costs incurred by the Company/Companies in the preparation of the EA shall be the sole responsibility of the Company/Companies. The Company/Companies agree/s to hold harmless and indemnify the BLM with respect to any and all claims, demands, cause(s) of action, and the like arising from the performance of the Company/Companies or any subcontractor of the Company/Companies; any services; or, purchases of materials utilized by the Company/Companies in the preparation of the EA.
 - c. The Company/Companies will ensure that the Contractor signs a Disclosure Statement as required by 40 C.F.R. § 1506.5(c) stating that the Contractor does not have any interest, financial or otherwise, in the outcome of the project. A copy of the signed statement will be provided to BLM.
 - d. The Company/Companies shall provide the Contractor with any MOUs or agreements pertinent to the preparation of the (*insert project name*) EA.
 - e. The Company/Companies will specify in the agreement with the Contractor that the Contractor shall be responsible for: (1) responding, as necessary, to BLM requests for input; (2) responding to public comments arising from the preliminary EA if released for public comment; (3) other information (i.e., mapping, public meeting materials, etc.) as deemed necessary by the BLM during the preparation of the preliminary and Final EA documents, and as necessary during preparation of the Decision Record; and (4) following the procedures outlined in this MOU.
4. The Company/Companies shall provide to the BLM a written description of the proposed project to facilitate preparation of the description of the proposed action and voluntary mitigation measures (a.k.a. operator committed measures or design features) to be included as part of the proposed action. The Company/Companies may also provide the Contractor with a copy of their proposal submitted to the BLM.
 5. To the extent practicable, the Company/Companies will submit to the BLM any information, studies, or other documentation that might be relevant to the BLM's analysis of the potential environmental impacts of the (*insert project name*) Project as early as practicable in the NEPA process.
 6. The Company/ Companies will ensure that the BLM is provided with all documentation created by themselves or a Contractor including, but not limited to, interdisciplinary (IDT) and Contractor's EA team meeting notes, e-mail messages, analysis protocols and methodologies and data, rationale, maps, GIS data and its Federal Geographic Data Committee (FGDC)-compliant metadata, and any other supporting information used in the preparation of the (*insert project name*) EA. Such information is part of the administrative record for this project and EA. The administrative record for the (*insert project name*) Project will be maintained at the (*insert field office name*) Field Office, and the Company/Companies and the Contractor shall share responsibility with BLM for ensuring that the record is complete and accurate.
 7. As requested by the BLM, the Company/Companies will attend meetings and participate in the preparation of appropriate mitigation measures to resolve or lessen potential adverse impacts of the project. The Contractor's EA team, or specific members thereof, will attend BLM IDT meetings as requested or deemed useful by the BLM.
 8. Except as described in Section V.A.12, the Company/Companies will be responsible for stenographic, clerical, graphics, and layout services; printing to established BLM standards; and all costs for analysis, internal review drafts, and final copies of the preliminary and final EA documents prepared by the Contractor. Foldout sheets and large maps shall be provided where appropriate. The Company/Companies shall be solely responsible for the cost of preparing and providing the number of copies of the preliminary and final EA (full document or executive summaries) as may be necessary for public review and administrative processing, for the cost of distributing as directed by the BLM, and for one copy suitable for reproduction by the BLM.

C. Joint Responsibilities

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1. The BLM, in cooperation with the Company/Companies and the Contractor, will develop an EA Preparation Schedule that projects key dates. The EA Preparation Schedule, current as of the signing of this MOU, is attached as Exhibit 1. Changes to the schedule will require advance notice by the BLM to the Company/Companies and the Contractor. All parties will use best efforts to adhere to, and assist each other in adhering to, the EA Preparation Schedule.
 2. The preparation of EA shall be open for public involvement and the company shall prepare a draft EA for review and public comment for a designated period following completion. BLM will take the lead in establishing the length of any comment or notification period. The company will assume the responsibility for printing, mailing and distribution of the draft EA for public review and comment. BLM will provide a mailing list to the company.
 3. The company will provide BLM with opportunities to review, comment, and make changes to the EA within the established time schedule, and BLM will provide comments within the timeframes established in the schedule. The company shall incorporate these comments and changes by BLM into the relevant section, parts, or chapters of the EA both in preparation for and following public review. The EA shall be released to other Federal agencies as well as state and local agencies for review and comment. The timing and procedures for such release will be specified pursuant to the agreed upon schedule.
 4. Information Sharing Responsibilities.
 - a. To ensure the objectivity of the Contractor, all communications between the Contractor and the Company/Companies, with the exception of specific budget documents, shall occur through BLM. The Companies will provide the BLM with all the information needed by the Contractor for the preparation of the (*insert project name*) EA. The Contractor will submit all requests for specific information needed for the EA through the BLM. Any and all work performed by the Contractor will be submitted directly to the BLM, and in no case will the Company/Companies review, modify, or edit the Contractor's work prior to its submission to the BLM.
 - b. The BLM will independently evaluate and consider all information and comments provided by the Company/Companies, and BLM remains solely responsible for the content and analysis in the EA as required by 40 C.F.R. § 1506.5(a). BLM may inform the Company/Companies of the outcome of interim and final decisions.
 - c. Until such time as BLM accepts the EA, the Company/Companies or Contractor shall not provide copies of the document to other interested parties or the general public unless requested by BLM.
 - d. Data provided pursuant to this MOU may contain proprietary or pre-decisional BLM information or information provided by the Company/Companies. All records or information requested of either party by the other will be reviewed by the releasing party prior to release. To the extent permissible under law, any recipient of proprietary or pre-decisional information agrees not to disclose this information to the public or other parties. To the extent permissible by law, any recipient of this information agrees not to transmit or otherwise divulge this information without approval from the BLM or the Company/Companies or both. Any breach of this provision may result in termination of this MOU. Requests for information will be made through the points of contact identified in Section VII. Contacts, below.
 - e. In addition to the items listed below, the BLM may request information from the Company/Companies at other stages of the NEPA analysis. 40 C.F.R. § 1506.5(a). Further, nothing prevents the Company/Companies from submitting information to the BLM for consideration at any time. 40 C.F.R. § 1506.5(c). The Company/Companies' responses to information requests and submitted information will be included in the Administrative Record for the EA.
 - i. (*include if appropriate*) **Emissions Inventory:** BLM will request information and comment from the Companies on the draft emissions inventories for the proposed project.
 - ii. **Mitigation and Minimization Measures:** In analyzing mitigation and minimization measures for the EA, the BLM may request information and comment from the Company/Companies concerning the feasibility of particular mitigation measures. However, as the lead federal agency, the BLM remains solely responsible for selection of

mitigation and minimization measures for the EA and compliance with NEPA, the CEQ regulations and other pertinent federal laws and regulations.

- iii. **Alternatives Selection:** The BLM shall ensure that the EA presents a range of reasonable alternatives and includes relevant environmental/social/economic issues and impacts, including cumulative impacts. As alternatives are developed, BLM may request information from the Company/Companies relative to the feasibility of reasonable alternatives to the Company's/Companies' project proposal for analysis in the (*insert project name*) EA. However, BLM remains solely responsible for identifying and analyzing reasonable alternatives, including the preferred alternative.

VI. ADMINISTRATIVE AND LEGAL PROVISIONS

A. Applicable Law

The parties agree to comply with all applicable laws governing activities under this MOU.

B. Term of MOU

This MOU will commence upon the date last signed and executed by the duly authorized representatives and will terminate in accordance with provisions listed below in VI., part D (Termination) or when the Decision Record for the (*insert project name*) Project is issued by the BLM, whichever occurs first.

C. Amendments

Either party may request changes in this MOU. Any changes, modifications, revisions, or amendments to this MOU, will be incorporated by written instrument, executed and signed by all parties to this MOU.

D. Termination

1. Each party to this MOU may terminate this MOU after not less than 30 days prior notice in writing to the other party. During the intervening 30 days, the parties agree to actively attempt to resolve any outstanding disputes or disagreements.
2. In the event this MOU is terminated, but the project is not withdrawn, BLM will evaluate its capabilities to complete and schedule preparation of the appropriate level of NEPA documentation consistent with personnel and budgetary limitations. The Company/Companies will be required to submit to the BLM all information and records held by the Company/Companies and the Contractor that were used for EA preparation up to the point of MOU termination, as well as information and records held by the Company/Companies and the Contractor needed to support continued preparation of the EA.

E. Limitations

In executing this MOU and taking any other action contemplated hereby, the Companies reserve the right to contest, in any administrative or judicial proceedings, any and all decisions concerning issues in the EA or any other Federal requirements related to the proposed project. The Company/Companies recognize that nothing in this MOU commits the BLM to permit the project or otherwise take action favorable to the Companies upon all or any part of the proposal.

F. Entirety of Agreement

This MOU consisting of (*insert # of pages*) pages, including attachments, represents the entire and integrated agreement between the parties and supersedes all prior negotiations, representations, and agreements concerning the (*insert project name*) Project EA, whether written or oral.

G. Severability

Should any portion of this MOU be determined to be illegal or unenforceable, the remainder of the MOU will continue in full force and effect, and either party may renegotiate the terms affected by the severance.

H. Assignability

This MOU may be assigned, transferred, or conveyed to any third party by the Company/Companies.

I. Administrative Consideration

1. In carrying out the terms of this MOU, there shall be no discrimination against any person because of race, creed, color, sex or national origin.
2. The terms of this MOU are effective only to the extent the BLM is authorized to take actions, and to the extent funds are appropriated or otherwise made available.
3. Nothing in this agreement shall be construed as obligating the BLM to expend, or as involving the BLM in any obligation for future payment of money in excess of appropriations authorized by law and administratively allocated for these purposes, except as specifically set forth herein.
4. All documents released to the public must reflect the independent judgment of the BLM. The BLM is responsible for the adequacy and objectivity of all such documents. The Companies and the Contractor will provide the BLM with the necessary support to meet that responsibility.

J. Dispute Resolution

In the event of any disagreement between the (*insert field office name*) Field Office and the Company/Companies regarding the scope of work, schedule, performance of Contractor, data requests, or other issues relating to the (*insert project name*) Project and EA that cannot be resolved between the (*insert field office name*) Field Office and the Company/Companies within a reasonable time, either party may refer the disagreement to the (*insert district name*) District Manager, and if resolution cannot be reached at the District, to the BLM Colorado State Director to timely resolve said issue. Nothing herein shall be construed, however, as limiting the rights of the Company/Companies to seek other relief as entitled by law.

VII. CONTACTS:

The primary points of contact for carrying out the provisions of this MOU are:

Company/Companies:

BLM: SIGNATURES

For (*insert company name*):

(*insert name, title, company, and address*)

Date

For Bureau of Land Management:

(*insert name, title, office, and address*)

Date

Exhibit 1
EA Preparation Schedule
for the
(insert project name here) **Project**

Tasks	Date
BLM Start-up Meeting – Establish BLM Interdisciplinary Team. Review proposal.	
MOU Finalized.	
Scoping Notice sent to public (if scoping is deemed necessary).	
Description of Proposed Action, Purpose and Need Statement Drafted.	
Meeting between BLM and Contractor to develop alternatives and cumulative impact analysis area based upon public issues/BLM concerns.	
Air Quality Modeling Protocol Finalized (if necessary)	
Affected Environment section completed.	
Potential Environmental Consequences section completed.	
Preliminary EA to BLM and interagency personnel for review.	
Comments to Contractor.	
Final review of preliminary EA. Cooperating agency (if any) may review.	
Publication of preliminary EA. Start public review period (approx. 2 weeks to 30 days).	
Hold Public Meetings (optional)	
Public comment period ends, all public comments to Contractor.	
Contractor analyzes public comments, summary report to BLM.	
Comment responses back to Contractor and finalized.	
Final EA delivered to BLM	
Comments back to Contractor.	
Final internal review of Final EA completed.	
Publication of EA and Decision Record	
Appeal Period Begins	