

Memorandum of Understanding  
Between  
The Department of the Interior, Bureau of Land Management,  
<insert Field Office> and  
the <insert cooperator[s]>  
as [a] Cooperating Agency[ies] <sup>1</sup>

I. Introduction

This Memorandum of Understanding (MOU) establishes a cooperating agency relationship between the Bureau of Land Management’s <insert name of field office> Field Office (“BLM”) and <insert name of Cooperator[s]> (“Cooperator[s]”) for the purpose of preparing the <insert name of plan> Resource Management Plan and Environmental Impact Statement (RMP/EIS). The BLM is the lead federal agency for development of the <insert name of plan> RMP/EIS. The BLM acknowledges that the Cooperator[s] has[ve] <Insert one: [jurisdiction by law] [special expertise] [jurisdiction by law and special expertise]> applicable to the RMP/EIS effort, as defined at 40 CFR 1508.15 and 1508.26. This MOU describes responsibilities and procedures agreed to by the <insert cooperator[s]> as [a][ Cooperating Agency[ies] and the BLM (“the Parties”).

The cooperating agency relationship established through this MOU shall be governed by all applicable statutes, regulations, and policies, including the Council on Environmental Quality’s National Environmental Policy Act (NEPA) regulations (in particular, 40 CFR 1501.6 and 1508.5), the BLM’s planning regulations (in particular, 43 CFR 1601.0-5, 1610.3-1, and 1610.4), and the Department of the Interior Manual (516 DM 2.5).

[TO BE USED IF COOPERATING AGENCY IS A TRIBAL GOVERNMENT] The BLM shall engage in government-to-government consultation with affected Indian tribe(s) during all phases of the planning process, in accordance with applicable federal statutes, regulations, and other authorities, including the National Historic Preservation Act, the American Indian Religious Freedom Act, Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), and Executive Order 13007 (Indian Sacred Sites). The cooperating agency relationship established here supplements and is subordinate to the government-to-government relationship between [insert name of tribal government(s)] and the BLM.

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<sup>1</sup> While the model MOU is intended for use in conjunction with resource management plans, it can readily be adapted for use with project-level EISs. Additional information on developing MOUs with cooperating agencies is provided in BLM’s *A Desk Guide to Cooperating Agency Relationships* (available at [http://www.blm.gov/wo/st/en/info/nepa/cooperating\\_agencies.html](http://www.blm.gov/wo/st/en/info/nepa/cooperating_agencies.html)). For more information, contact Rob Winthrop (202-557-3587, [Robert\\_Winthrop@blm.gov](mailto:Robert_Winthrop@blm.gov)) or Cynthia Moses-Nedd (202-452-5114, [Cynthia\\_Moses-Nedd@blm.gov](mailto:Cynthia_Moses-Nedd@blm.gov)).

## II. Purpose

The purposes of this MOU are:

- A. To designate <insert Cooperator[s]> as [a] Cooperating Agency[ies] in the RMP/EIS process.
- B. To provide a framework for cooperation and coordination between the BLM and the Cooperator[s] that will ensure successful completion of the RMP/EIS in a timely, efficient, and thorough manner.
- C. To recognize that the BLM is the lead agency with responsibility for the completion of the RMP/EIS and the Record of Decision (ROD).
- D. To describe the respective responsibilities, jurisdictional authority, and expertise of each of the Parties in the planning process.

## III. Authorities for the MOU

- A. The authorities of the BLM to enter into and engage in the activities described within this MOU include, but are not limited to:
  - 1. National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
  - 2. Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).
- B. Regulations implementing the above authorities:
  - 1. Council on Environmental Quality regulations (40 CFR 1501 et seq.)
  - 2. Bureau of Land Management planning regulations (43 CFR 1601 et seq.)
- C. The authorities of <insert cooperator[s]> to enter into this MOU include, but are not limited to:
  - 1. <Insert authority>
  - 2. <Insert authority>
- D. [TO BE USED IF COOPERATING AGENCY IS A TRIBAL GOVERNMENT]  
The authorities of <insert tribe[s]> to enter this MOU include but are not limited to:
  - 1. <Insert treaty if relevant>
  - 2. <Insert authority as appropriate>

## IV. Roles and Responsibilities

### A. BLM Responsibilities:

- 1. As lead agency, the BLM retains final responsibility for the content of all planning and NEPA documents, which include the Draft RMP/Draft EIS, the Proposed RMP/Final EIS, and the ROD. The BLM's responsibilities include determining the purpose of and need for the RMP, selecting alternatives for analysis, identifying effects of the proposed alternatives, selecting the preferred alternative, and determining appropriate mitigation measures. In meeting these responsibilities, the BLM will follow all applicable statutory and regulatory requirements.

2. To the fullest extent consistent with its responsibilities as lead agency, the BLM will consider the comments, recommendations, data, and/or analyses provided by the Cooperator[s] in the RMP/EIS planning process, giving particular consideration to those topics on which the Cooperator[s] is [are] acknowledged to possess jurisdiction by law or special expertise.

3. To the fullest extent practicable, after consideration of the effect such releases may have on the BLM's ability to withhold this information from other parties, the BLM will provide the Cooperator[s] with copies of documents underlying the RMP/EIS relevant to the Cooperator's[s'] responsibilities, including technical reports, data, analyses, comments received, working drafts related to environmental reviews, and draft and final RMP/EISs.

#### B. Cooperating Agency Responsibilities:

1. <Insert cooperator[s]> is [are] [a] Cooperating Agency[ies] in this planning process and is [are] recognized to have <Insert one: [jurisdiction by law] [special expertise] [jurisdiction by law and special expertise]> in the following areas:

- a. <Insert special authorities/expertise>
- b. <Insert special authorities/expertise>

2. The Cooperator[s] will provide information, comments, and technical expertise to the BLM regarding those elements of the RMP/EIS, and the data and analyses supporting them, in which it has [they have] jurisdiction or special expertise or for which the BLM requests its [their] assistance. In particular, the Cooperator[s] will provide information on the following topics:

- a. <Insert specific topics; for example, air quality data, county visitor expenditures, transportation studies>
- b. <additional topics>
- c. Other such information that is relevant to planning issues or data needs.

3. Within the areas of their jurisdiction or special expertise, the Cooperator[s] may participate in any of the activities identified in Attachment A. These activities include, but are not limited to: providing guidance on public involvement strategies, identifying data needs, suggesting management actions to resolve planning issues, providing input to the draft Analysis of the Management Situation, identifying effects of alternatives, suggesting mitigation measures, and providing written comments on working drafts of the RMP/EIS and supporting documents. (See also Section C.4.)

4. [WHERE COOPERATOR[S] WILL PREPARE TECHNICAL ANALYSES OR PROVIDE DATA SETS, INDICATE IF COOPERATOR[S] WILL BE COMPENSATED. IF SO, BLM STAFF SHOULD WORK WITH A CONTRACTING OFFICER TO OBLIGATE FUNDS FOR THIS PURPOSE.] <insert name of cooperator> will provide the following technical study[ies] [data

sets] in support of the <insert name of plan> RMP/EIS, within the schedule identified in Attachment B:

- a. <identify study to be performed>
- b. <indicate if cooperator[s] will be compensated>

C. Responsibilities of the Parties:

1. The Parties agree to participate in this planning process in good faith and make all reasonable efforts to resolve disagreements. [OPTIONAL TEXT: Where procedural or substantive disagreement may impede effective and timely completion of the <insert plan> RMP/EIS, the Parties agree to utilize the facilitation and conciliation procedures described below (see Section V.G).]
2. The Parties agree to comply with the planning schedule provided as Attachment B, which includes dates for RMP/EIS milestones and timeframes for Cooperator's [s'] reviews and submissions.
3. Each Party agrees to fund its own expenses associated with the <insert name of plan> RMP/EIS process, except that the BLM may contract with a Cooperator for technical studies within its jurisdiction or special expertise, as provided for in Section IV.B.4.
4. The Parties agree to carefully consider whether proposed meetings or other activities would waive the Unfunded Mandates Reform Act exception to the Federal Advisory Committee Act (2 U.S.C. 1534(b) and 5 U.S.C App.).

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 or organization for purposes of plan development, environmental analysis, or Cooperator representation, including officials, employees, or third party contractors, having a financial interest in the outcome of the <insert name of plan> RMP/EIS. Questions regarding potential

conflicts of interest should be referred to BLM HQ or Field Ethics Counselors for resolution.

E. Documenting disagreement or inconsistency. Where the BLM and one or more Cooperators disagree on substantive elements of the RMP/EIS (such as designation of the alternatives to be analyzed or analysis of effects), and these disagreements cannot be resolved, the BLM will include a summary of the Cooperator's[s'] views in the Draft RMP/Draft EIS and the Proposed RMP/Final EIS. The BLM will also describe substantial inconsistencies between its proposed action(s) and the objectives of state, local, or tribal land use plans and policies.

F. Management of information. [Select version 1 or 2]

[State and field office staff are encouraged to consult with a Freedom of Information Act (FOIA) Specialist and the Office of the Solicitor for guidance. See also Cooperating Agency Desk Guide.]

[VERSION 1, TO BE USED WHEN THERE IS NO APPLICABLE STATE OR LOCAL OPEN RECORDS ("SUNSHINE") REQUIREMENT]

The Cooperator[s] acknowledge[s] that all supporting materials and draft documents may become part of the administrative record and may be subject to the requirements of the Freedom of Information Act (FOIA) and other federal statutes. The Cooperator[s] agree[s] not to release these materials to individuals or entities other than the Parties to this MOU.

[VERSION 2, TO BE USED WHEN THERE IS AN APPLICABLE STATE OR LOCAL OPEN RECORDS ("SUNSHINE") REQUIREMENT]

The Cooperator[s] acknowledge[s] that all supporting materials and draft documents may become part of the administrative record and may be subject to the requirements of the Freedom of Information Act (FOIA) and other federal statutes. The BLM acknowledges that the Cooperator's[s'] handling of these materials may be impacted by <identify state statute or local ordinance>. The Parties agree that the BLM at its discretion may withhold from the cooperator[s] those documents that would otherwise be available for public release under <applicable state statute or local ordinance>.

G. Conflict Resolution [OPTIONAL]

[State and field office staff are encouraged to consult with State Office or Washington Office Alternative Dispute Resolution staff or the Office of the Solicitor for guidance.]

The Parties agree to make reasonable efforts to resolve procedural or substantive conflicts, and may agree to initiate an Alternative Dispute Resolution (ADR) process. The Parties acknowledge that BLM retains final responsibility for the decisions identified in the <insert plan> RMP/EIS and ROD.

1. [INCLUDE AS APPROPRIATE] Facilitation. If the Parties deem necessary, they agree to retain an independent facilitator to foster clear and efficient communication. The facilitator's responsibilities include <specify>. Procedures for retaining, directing, and compensating the facilitator, and a more detailed list of duties, are provided in Attachment <specify>.

2. [INCLUDE AS APPROPRIATE] Joint fact-finding. Where the Parties disagree on matters of scientific information, data collection, or analysis, the following procedures will be employed to prepare a neutral assessment of the contested scientific issues. <specify procedures>, as further provided in Attachment <specify>.

3. <specify other dispute resolution procedures, as appropriate>

H. [OPTIONAL: Where the BLM retains a contractor] Coordination with contractors [modify description of contractor's responsibilities as needed]. <insert name of contractor> serves as the BLM's contractor for [select as appropriate: public involvement, data collection, environmental analysis, and RMP/EIS preparation]. Cooperators may <select one: [communicate with the contractor only through BLM's representative] [provide information and comments directly to the contractor] [collaborate with contractor's technical staff and subcontractors on matters within the Cooperator's[s'] jurisdiction or special expertise]>. The Cooperator[s] acknowledge[s] that the BLM retains the exclusive responsibility to authorize modifications to the contract with <insert name of contractor>, and that the Cooperator[s] is [are] not authorized to provide technical or policy direction regarding the performance of this contract.

## VI. Agency Representatives

Each Party will designate a representative and alternate representative, as described in Attachment C, to ensure coordination between the Cooperator[s] and the BLM during the planning process. Each Party may change its representative at will by providing written notice to the other Party[ies].

## VII. Administration of the MOU

A. Approval. This MOU becomes effective upon signature by the authorized officials of the BLM and at least one Cooperator.

B. Amendment. This MOU may be amended through written agreement of all signatories <specify conditions, if any>.

C. Termination. If not terminated earlier, this MOU will end when the ROD for the <insert name of plan> RMP/EIS is approved by the BLM State Director. Any Party

may end its participation in this MOU by providing written notice to [the other Party]  
[all other Parties] <specify conditions, if any>.

### VIII. Signatures

The Parties hereto have executed this MOU on the dates shown below.

<Insert cooperator>

<Insert address>

Date

<Insert Name>, <Insert Title>

Bureau of Land Management

<Insert name> Field Office

<Insert address>

Date

<Insert Name>, Field Manager

## Attachment A

### Cooperating Agency Participation in the <insert name of plan> RMP/EIS>

[delete activities where not applicable]

	<b>RMP/EIS Stage</b>	<b>Potential Activities of Cooperating Agencies (CAs) within their acknowledged areas of expertise</b>
1	Conduct scoping and identify issues	Provide input on preparation plan; identify coordination requirements based on CA plans; identify significant issues; identify relevant local and regional organizations and interest groups; provide non-financial sponsorship of public forums with the BLM; collaborate in assessing scoping comments; identify connected, similar, and cumulative actions; identify other relevant agencies.
2	Develop planning criteria	Provide advice on proposed planning criteria.
3	Collect inventory data	Identify data needs; provide data and technical analyses within the CA's expertise.
4	Analyze management situation	Provide input on the Draft Analysis of the Management Situation (AMS) and aid in interpreting the AMS to constituents.
5	Formulate alternatives	Collaborate with field manager in developing alternatives. Suggest land allocations or management actions to resolve issues. <b>[Decision to select alternatives for analysis is reserved to the BLM.]</b>
6	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.
7	Select the preferred alternative; issue Draft RMP/EIS	Collaborate with field manager in evaluating alternatives and in developing criteria for selecting the preferred alternative; provide input on Preliminary Draft RMP-DEIS. The CAs may provide written, public comments on draft if desired. <b>[Decision to select a preferred alternative and to issue a draft is reserved to the BLM.]</b>
8	Respond to comments	As appropriate, review comments within the CA's expertise and provide assistance in preparing BLM's responses.
8a	Issue Proposed RMP/FEIS	<b>[Action reserved to BLM.]</b>
8b	Initiate Governor's Consistency Review	Once initiated by the BLM, state CAs should contribute to the Governor's Consistency Review.
9	Sign Record of Decision (ROD) [or]	<b>[Action reserved to the BLM.]</b>
9a	Resolve protests; modify Proposed RMP/FEIS if needed; sign ROD	<b>[Action reserved to the BLM.]</b> A CA that has provided information relevant to a protest may be asked for clarification.

**Attachment B**  
**Schedule**

[examples of schedule entries]

<b>Task</b>	<b>Responsibility</b>	<b>Dates</b>
conduct scoping and identify issues	core team, cooperators	
review scoping comments	core team, cooperators	
review and comment on affected environment chapter (administrative draft)	cooperators	
formulate alternatives	cooperators (advisory), core team	
estimate effects of alternatives (for identified areas of cooperator expertise)	cooperators	

Attachment C  
Agency Representatives

Bureau of Land Management

Plan: <insert name of Plan>

Primary Representative: <insert name & position title of contact employee>

Backup Representative: <insert name & position title of contact employee>

<Cooperator>

Primary Representative: <insert name & title of contact employee>

Backup Representative: <insert name & title of contact employee>