

**MEMORANDUM OF UNDERSTANDING
FOR MINING AND MINERAL RELATED ACTIVITIES
WITHIN THE STATE OF NEVADA**

AMONG

**NEVADA DEPARTMENT OF CONSERVATION
DIVISION OF ENVIRONMENTAL PROTECTION**

AND

**U.S. DEPARTMENT OF AGRICULTURE - FOREST SERVICE
HUMBOLDT-TOIYABE NATIONAL FOREST 09-MU-11041730-008**

AND

INYO NATIONAL FOREST 09-MU-11050453-006

AND

**U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
NEVADA**

DATE:

November 20, 2008

This MEMORANDUM OF UNDERSTANDING, hereinafter referred to as the MOU, is entered into among the agencies identified as the State of Nevada, Division of Environmental Protection, hereinafter called the NDEP; the U.S. Department of Agriculture - Forest Service, Humboldt-Toiyabe National Forest and Inyo National Forest, hereinafter called the USDA-FS; and the U.S. Department of the Interior - Bureau of Land Management, Nevada, hereinafter called the USDOI-BLM.

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I. PURPOSE

The purpose of this MOU is to achieve the following: 1) Establish and maintain coordination among the NDEP, the USDA-FS, and the USDOI-BLM for their respective joint responsibilities pertaining to the administration and reclamation of lands disturbed by exploration projects and mining operations for locatable minerals on private, State, and Federal lands administered by the USDA-FS and USDOI-BLM within the State of Nevada; 2) Expedite administration and enforcement of their respective authorities pertaining to exploration and mining operations; 3) Prevent unnecessary or undue degradation of public lands and to minimize adverse environmental impacts on surface resources; and 4) Develop and maintain common guidance to regulate facilities and activities on operations consisting of a mixture of public and private lands.

II. AUTHORITIES

This MOU is based on the following authorities:

A. NDEP

1. Nevada Revised Statutes, Chapter 519A.
2. Nevada Revised Statutes, Chapter 445A.

B. USDA-FS

1. The General Mining Law of May 10, 1872, as amended (30 U.S.C. 22, et seq.).
2. The Organic Administration Act of June 4, 1897, as amended (30 STAT 36, 16 U.S.C. 478 and 551).
3. Title 36 Code of Federal Regulations, Part 228, Subpart A, as amended
4. Title 30 U.S.C. Section 612
5. Title 36 Code of Federal Regulations, Part 219, as amended
6. Title 36 Code of Federal Regulations, Part 261, as amended

C. USDOJ-BLM

1. The General Mining Law of May 10, 1872, as amended (30 U.S.C. 22, et seq.).
2. Title 30 U.S.C. Section 612.
3. Sections 102(a)(12), 302, 303 and 603 of The Federal Land Policy and Management Act of Oct.1, 1976, as amended (90 STAT 2762, 43 U.S.C. 1732 et seq.).
4. Title 43 U.S.C. Sections 1201 and 1457.
5. Title 43 Code of Federal Regulations, Subparts 3802, 3809 and 3715.

III. DEFINITION of Terms Used in this MOU

1. Bureau of Land Management (BLM) Lands – Lands administered by the USDOJ-BLM.
2. Compliance Enforcement - Administrative and legal remedies for violations of an agency's applicable laws and regulations.
3. Final Permanent Closure Plan – A Final Permanent Closure Plan is submitted two years prior to the anticipated permanent closure of a process component. A final permanent closure plan

provides closure goals and methodologies to achieve a level of stabilization of all known and potential contaminants at the site and includes a monitoring plan to demonstrate that closure goals are met. The final permanent closure plan should be submitted to the federal and State agencies at the same time.

4. Financial Guarantee – The assurance provided by or on behalf of an Operator to guarantee the lands disturbed under an approved Plan of Operations are reclaimed in the event the Operator cannot or will not perform the required reclamation. Examples of a financial guarantee are a surety bond or a personal bond secured by a financial pledge. A “financial guarantee” is commonly referred to as a “bond.”

5. Kick-Off Meeting - A coordination meeting or teleconference between the operator and the agencies is recommended so that all parties are involved at the initial stages of a new Plan proposal or Plan amendment.

6. Land Managing Agency - The agency that is responsible for the stewardship and administration of the land. For the purposes of this agreement, either the USDA-FS or the USDOJ-BLM is the “land managing agency” on the public lands administered by that agency.

7. Locatable Minerals - All mineral deposits under the General Mining Law of 1872, as amended, except those minerals specifically excluded by the Mineral Leasing Act of 1920, as amended, and Mineral Materials Act of 1947, as amended.

8. National Forest System (NFS) Lands - Land areas administered by the U.S.D.A. Forest Service.

9. Notice of Intent to Operate - Formal notification prior to initiating operations which might cause significant surface disturbance on public lands. If the District Ranger determines that the proposed operations may cause significant surface disturbance then a Plan of Operations must be submitted.

10. Operator – A person conducting or proposing to conduct operations. “Person” means any individual, firm, corporation, association, partnership, trust, consortium, joint venture, or any other entity conducting operations on public lands.

11. Plan of Operations (Plan) A classification of operations. A formal proposal to conduct operations, including reclamation, on USDOJ-BLM or USDA-FS lands. The appropriate land managing agencies must review and approve the Plan. Approval requires an acceptable reclamation cost estimate and financial guarantee for the Plan.

12. Reclamation Cost Estimate (RCE) – A reclamation cost estimate is prepared and submitted by an operator and reviewed by the appropriate agencies. The RCE must cover the estimated costs as if USDOJ-BLM and/or NDEP were to contract with a third party to reclaim the operations according to the reclamation plan, including construction and maintenance costs for any treatment facilities necessary to meet federal and State environmental standards. The RCE must also cover any interim stabilization and infrastructure maintenance costs needed to maintain

the area of operations in compliance with applicable environmental requirements while third-party contracts are developed and executed.

The USDA-FS estimates are based on the principles put forth in the “Training Guide for Reclamation Bond Estimation and Administration for Mineral Plans of Operation authorized and administered under 36 CFR 228A USDA – Forest Service, April 2004.”

13. Reclamation Permit - The permit issued by the NDEP pursuant to NRS 519A and NAC 519A regarding reclamation of mining operations and exploration projects. The permit application is reviewed per NAC 519A regulations. Once the permit application is deemed complete by NDEP and consistent with NAC 519A regulations, the Reclamation Permit is issued.

14. Reclamation Plan (RecPlan) - The part or section of the plan of operations that covers actions necessary to reclaim, rehabilitate, shape, stabilize, revegetate or otherwise treat the land in order to return it to a safe, stable condition consistent with the establishment of a productive post mining land use and to minimize unnecessary or undue degradation. Description of equipment, devices or practices proposed should be consistent with regulations at 36 CFR 228, 43 CFR 3809, and NAC 519A as appropriate. Abandonment or demolition of facilities is conducted to maximize public health and safety and visual resource management.

IV. COMPLIANCE ENFORCEMENT

Each agency shall have the responsibility for enforcement of its applicable regulations, rules, and laws. The federal land managing agencies and NDEP will coordinate enforcement actions when appropriate. Failure to achieve compliance enforcement requirements by any agency may result in a request for bond forfeiture.

V. PLANS AND PERMITS

The USDOI-BLM and NDEP have developed a joint recommended RecPlan format for use by an operator. The USDOI-BLM has a Plan outline (use is voluntary) available to assist operators in complying with the requirements at 43 CFR 3809. The RecPlan is a portion of the Plan of Operations required by the USDOI-BLM and USDA-FS. The RecPlan is a portion of the Reclamation Permit application required by NDEP.

When an agency receives a new or amended Plan covered by this MOU, the agency will verify that a duplicate copy was filed with the other responsible agency (ies).

Upon agencies' receipt of a new or an amended Plan, it is recommended the USDOI-BLM, NDEP and operator participate in a kick-off meeting to discuss coordination, permitting, review processes, reclamation cost estimate, bonding, National Environmental Policy Act (NEPA) requirements, and establish contacts for the Plan approval process. When an operator submits a new or amended Plan to the USDA-FS, the USDA-FS will inform the NDEP that a Plan has been received and will request NDEP comments

The agencies will coordinate reviews and approvals for mine closure issues. When an operator submits a closure plan or a Final Permanent Closure Plan, the NDEP will verify that a duplicate copy has been filed with the other responsible agency (ies). The federal agency (ies) will review the closure documents to determine if a Plan amendment or a revised reclamation cost estimate is needed and the level of NEPA analysis required. The agency (ies) will notify the operator and other agency (ies) involved of its determination.

VI. SETTING RECLAMATION COST ESTIMATE/ADMINISTRATION OF THE BOND

The articles of this section describe coordination of the agencies in determining a reclamation cost estimate, the amount required for a reclamation bond, administering a bond, obtaining performance under a bond, or performing reclamation of Plans covered by this MOU.

1. Based on a reclamation cost estimate submitted by an Operator, the agencies shall determine a single amount required for the bond, write a bond decision letter and ensure the agency (ies) are copied on the decision.

If NFS lands are involved, the applicable portion of the reclamation cost estimate shall be documented and that portion of the bond shall be allocated for the NFS lands. The State or the USDA-FS shall have access to its appropriate allocation of the bond unless otherwise agreed to in writing. If a bond includes coverage of USDOI-BLM and NFS lands, then an interagency agreement may be executed as necessary.

2. All reviews of reclamation plans and reclamation cost estimates (RCE) shall be coordinated between the agencies to the extent feasible in order to produce a mutually acceptable required bond amount. The agencies with jurisdiction shall prepare or review the reclamation cost estimate, adjust as necessary according to regulation/policy, and state the required bond amount for site reclamation in writing.

If NDEP cannot review the reclamation cost estimate in a timely manner and the USDOI-BLM has completed its review, then the USDOI-BLM will proceed with issuing a bond Decision. The NDEP will issue a reclamation cost estimate determination upon completion of its review.

If the USDOI-BLM cannot review the reclamation cost estimate in a timely manner and the NDEP has completed its review, then the USDOI-BLM may accept the NDEP cost estimate determination and issue a bond Decision only if the bond amount goes up. Upon USDOI-BLM completion of its review, the USDOI-BLM will issue a new bond Decision if the bond amount changes.

3. When the USDOI-BLM and the USDA-FS require a bond for a single plan that is contained on public lands, a bond for the entire plan may be held by either agency and shall be redeemable by either agency. Any such bond(s) must be acceptable to both agencies. An interagency agreement may be executed as necessary.

4. For operations involving NFS and non-Federal lands, a single bond may be provided if it specifies the amount of the bond allocated to reclamation on NFS lands. The basis for the allocations shall be the bond estimate as described in Item 1 and agreed to by the agencies in Item 1 of this section of the MOU. The single bond may be held by the USDA-FS or by the State through this MOU. Such bond must be acceptable to both agencies, and meet their agency requirements and standards.
5. If the NDEP holds a single bond for a federal Plan covered by this MOU, then the bond must be acceptable to the BLM (regulations at 43 CFR 3908.203, .570, and .571) prior to NDEP acceptance.
6. The amount of bond provided for a plan must be sufficient to satisfy the reclamation cost estimates for the lands under each agency's jurisdiction as required by the laws and regulations of each agency. Where a mutually acceptable cost estimate cannot be reached, the agencies shall enter into dispute resolution as outlined in Section IX of this MOU. If dispute resolution is not successful, then the agencies shall be responsible for determining the reclamation cost estimate for lands under their separate jurisdictions and require bonding accordingly.
7. If an agency finds cause to demand payment of a bond held by another agency, the first agency will provide adequate justification and request the holding agency initiate collection action. The agency holding the bond will undertake to collect the bond to the extent provided by its laws and rules or regulations. It is further agreed the agency holding the bond will act on behalf of the other agencies on any matters concerning the bond, to the extent provided by its laws and rules or regulations.
8. When a bond is collected, forfeited, or relinquished, the agency holding the appropriated funds will coordinate with the jurisdictional agencies on site reclamation. Expenditure of funds will be as determined from a coordinated site visit to determine reclamation needs in the best interest of public health and safety.
9. The parties may enter into additional agreements as may be necessary to implement this Section. Such agreements may be needed to describe legal and procedural requirements that must be followed by the agencies in determining the required amount of a reclamation bond, administering the bond, collecting the bond and/or performing reclamation on mixed lands.
10. Written concurrence will be required of all agencies to verify any reduction of the obligated amount of a bond prior to a reduction being allowed. A reduction of the obligated amount of the bond will be effected by the office of the agency which accepted and maintains the bond. All parties to the bond and/or operations will be advised as the obligated amount of the bond is reduced.

VII. LIMITATIONS

This agreement is not intended to waive or otherwise limit any federal or State laws, rules, or regulations, or any other requirements or duties under such laws, rules, or regulations. This

agreement is not intended to give an agency additional authority beyond their current laws, rules or regulations.

VIII. COORDINATION

1. The agencies will promptly inform the other parties to the MOU of any new or possible unknown mineral-related activities of concern to the other agencies on either public or private lands.
2. Each agency will promptly inform the other parties to the MOU of any changes in rule making and policy.
3. Select representatives from the agencies will meet as needed to coordinate activities, resolve issues or mutual concerns, exchange information on policies and procedures, and any other matters of mutual concern that affects the implementation of this agreement.
4. Each agency will provide the other agencies a list of general personnel contacts by Forest and Field Office management areas as a working directory of current locatable mineral projects and the points of contact for each project. Points of contact lists shall be updated annually.
5. The agencies will coordinate and exchange relevant information and correspondence relating to inspections, Plans and RecPlans for projects affecting the agencies.
6. To the extent possible, the agencies should encourage and facilitate joint inspections.
7. The agencies will coordinate and exchange non-confidential information relating to Notices of Noncompliance and Findings of Alleged Violation and Orders.
8. The agencies will coordinate and exchange relevant information and correspondence relating to change of operator, permit transfer and related bond release.
9. The USDOI-BLM and NDEP will jointly develop an annual schedule for mines requiring their 3-year reclamation cost estimate update. The agencies will coordinate correspondence to the operators requiring the update and when submittals are required.

The USDOI-BLM, USDA-FS and NDEP have many similar requirements for the Plan of Operations and the Water Pollution Control Permit. The agencies will coordinate and exchange relevant information and correspondence relating to the following plans: water management plans, waste rock management and handling plans, quality assurance plans, spill contingency plans, design and operating plans for mining areas and processing facilities, waste rock and tailing disposal facilities, monitoring plans, and interim management plans.

IX. DISPUTE RESOLUTION

In the event the agencies may reach an impasse in resolving an issue, two levels of resolution will be established under this MOU. The first level will involve the Field/District Manager for USDOJ-BLM, the District Ranger for USDA-FS and the Bureau Chief for NDEP. If resolution cannot be reached at this level, the next level will involve the State Director for USDOJ-BLM, the Forest Supervisor for USDA-FS and the Administrator for NDEP.

X. EFFECTIVE DATE

This MOU shall become effective upon signature by the Administrator of the NDEP, the Forest Supervisor for the Humboldt-Toiyabe and Inyo National Forests of the USDA-FS, and the Nevada State Director for the USDOJ-BLM, and will remain in full force and effect for a period of five (5) years from date of signatures, at which time it will expire unless extended. The parties agree to implement the terms and conditions of this MOU as of the date of the final signatures below.

XI. AMENDMENT

Amendment to this agreement may be proposed at any time by any party to the agreement and shall become effective upon written approval by all parties to the agreement.

XII. TERMINATION

Any of the parties, after 60 days written notice to the other agencies, may terminate this agreement, in whole or in part, at any time before the date of expiration. In the event this agreement is terminated, each agency agrees to maintain the existing bond to the legal extent possible until such time as an agreement can be reached between the operator, the NDEP, the USDA-FS, or the USDOJ-BLM as to the disposition of the bond.

XIII. NON-FUND OBLIGATING DOCUMENT

This agreement is neither a fiscal nor a funds obligation document. Any endeavor or transfer of anything of value involving reimbursement or contribution of funds between the parties to this agreement will be handled in accordance with applicable laws, regulations and procedures including those for Government procurement and printing. Such endeavors will be outlined in separate agreements, such as a cooperative agreement, that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This agreement does not provide such authority. Specifically, this agreement does not establish authority for noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

XIV. FREEDOM OF INFORMATION ACT

Any information furnished to the USDA-FS and the USDOI-BLM under this agreement is subject to the Freedom of Information Act (5 U.S.C. 552).

XV. PARTICIPATION IN SIMILAR ACTIVITIES


This agreement in no way restricts the USDA-FS, the USDOI-BLM or the Cooperator(s) from participating in similar activities with other public or private agencies, organizations, and individuals.

XVI. PRINCIPAL CONTACTS

AGENCY	PHONE
Nevada Division of Environmental Protection	(775) 687-9400
Bureau of Mining Regulation & Reclamation – Bureau Chief David Gaskin – dgaskin@ndep.nv.gov	(775) 687-9397
Humboldt-Toiyabe National Forest	(775) 331-6444
Acting Minerals Team Leader Susan Elliott – sgelliott@fs.fed.us	(775) 778-6123
Inyo National Forest	(760) 873-2400
Minerals Team Leader Lynn Oliver – loliver@fs.fed.us	(760) 873-2424
Bureau of Land Management	(775) 861-6400
Mining Law Program Lead Scott Murellwright– thomas_murrellwrite@nv.blm.gov	(775) 861-6581

XVII. USDA-FS GRANTS AND AGREEMENTS

The authority and format of this amendment has been reviewed and approved for signature.


/s/ Jean Burt
Grants and Agreements Specialist
Humboldt-Toiyabe National Forest

11/17/2008
Date

/s/ Karine Wagner
Agreements Coordinator
Inyo National Forest

11/17/2008
Date

XVIII. SIGNATURES



Leo Drozdoff
Administrator
Division of Environmental Protection
State of Nevada

12/4/08

Date



Edward Monnig
Forest Supervisor
Humboldt-Toiyabe National Forest
U.S.D.A. Forest Service

12/2/08

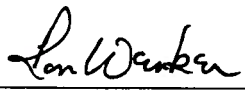
Date



Jim Upchurch
Forest Supervisor
Inyo National Forest
U.S.D.A. Forest Service

12/15/08

Date



Ron Wenker
State Director
Nevada State Office
U.S.DOI Bureau of Land Management

11/21/08

Date