

2041002 Incoming

**Memorandum of Understanding for Preparation of an Environmental Assessment
for the Greens Hollow Federal Coal Lease Tract UTU-84102 between the
United States Department of the Interior-Office of Surface Mining, Reclamation,
and Enforcement-Western Region and the
Utah Division of Oil, Gas and Mining Office
As Cooperating Agency**

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DIV. OF OIL, GAS & MINING

A Memorandum of Understanding (the MOU) is hereby made and entered into this 24th day of October, 2017, between the U.S. Department of the Interior, Office of Surface Mining, Reclamation, and Enforcement - Western Region (OSMRE), as lead agency, and the Utah Division of Oil, Gas and Mining Office (DOGM), as cooperating agency. This MOU establishes the relationship between OSMRE as lead agency, and the DOGM as cooperating agency (the Parties), to pursue compliance with the National Environmental Policy Act of 1969 (42 U.S.C. § 4321 et seq.), as amended (NEPA) and related regulations in conjunction with the review of the Greens Hollow Federal Coal Lease Tract UTU-84102 coal mining operations at the SUFCO Mine located in Sanpete and Sevier Counties, Utah.

I. Introduction

This MOU sets forth roles and responsibilities for Cooperating Agencies as agreed to between the OSMRE and the DOGM for the purposes of collaborative planning and production of an Environmental Assessment (EA) for the Greens Hollow Federal Coal Lease Tract UTU-84102 mining plan decision document (MPDD).

II. Purpose

The OSMRE, in carrying forth its responsibilities and mandates under NEPA and Council on Environmental Quality regulations at 40 Code of Federal Regulations (CFR), Part 1500, the Mineral Leasing Act of 1920 (30 U.S.C. § 181 et seq.), as amended and the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. § 1201 et seq), as amended (SMCRA) recognizes a compelling need to ensure that the interests of the DOGM is accounted for and that DOGM is meaningfully involved in the development of the SUFCO Mine, Greens Hollow Federal Coal Lease Tract, MPDD EA for federal coal lease UTU-84102.

As such, OSMRE has requested and DOGM has agreed to Cooperating Agency status pursuant to 40 CFR 1501.6, 1501.2, and 1501.8. Under these regulations, OSMRE recognizes that DOGM has jurisdictional responsibilities and special expertise as it relates to many aspects of the EA development.

III. Agency Designations

Each participating entity will designate one primary representative to act as contacts in ensuring coordination between OSMRE, and DOGM during the planning process. An entity may change its point of contact at any time by providing written notice to the other party.

IV. Authorities for Agreement

The authority of the OSMRE, and DOGM to participate in this agreement is provided by the NEPA and 40 CFR 1501.6-Cooperating Agencies, and 1508.5-Cooperating Agency.

SMCRA, in its implementing regulations at 30 CFR Part 740.4 (c) (7) (iii), states that OSMRE continues to be responsible for "Notifying and soliciting views of other State and Federal agencies, as appropriate, on the environmental effects of the proposed action".

V. Roles and Responsibilities

A. Office of Surface Mining Reclamation and Enforcement, Western Region

OSMRE, as the lead agency, is responsible for the following:

1. Making all final determinations on the content of the EA, preparing the EA, and ensuring the quality of EA documents.
2. Enabling DOGM to be a meaningful cooperater in the EA process by providing the following opportunities:
 - Involvement in identifying issues and concerns relative to the planning process.
 - Involvement in identifying or providing data that is suitable, available, and relevant to the planning process.
 - Input into the development of a reasonable range of alternatives, or portions thereof, which are geared towards resolving the planning issues which may be of concern to the DOGM.
 - Review and comment on draft sections of the EA that DOGM provided input on due to its jurisdictional responsibilities or special expertise.
3. Considering, to the extent possible, and incorporating, as appropriate, the information provided by DOGM into the EA.
4. Gretchen Pinkham is the designated representative for this project.

B. Utah Division of Oil, Gas and Mining Office

DOGM, as the cooperating agency, is responsible for the following:

1. Assisting OSMRE in the identification of the issues and concerns to be addressed in the planning effort.
2. Participating fully in the development of the EA, including providing relevant data, assisting in developing reasonable alternatives which will be considered in the EA and providing other assistance in the development of the EA.
3. Provide a technical review of the Contractors EA and applicable Technical Support Documents by available staff with special expertise at DOGM, including biological resources, water resources, and air quality/climate change.
4. Adhering to established timelines, to the extent reasonable and practical, for completion of the EA.
5. Daron Haddock is the designated representative for this project.

VI. Funding

Each entity agrees to fund its own expenses associated with this planning process.

VII. Joint Responsibilities

A third-party contractor hired by the Operator will be responsible for developing the EA document so that it is acceptable by OSMRE. The EA document development will include data collection, preparation of technical reports, alternatives preparation, impact analysis, and response to public comments. Because the Operator is paying for the preparation of the EA, the third-party contractor will only accept instructions or changes resulting in modifications to the defined contract from OSMRE. Exceptions may be made for data calls and on a case-by-case basis when approved in advance by OSMRE to accomplish specific tasks. The intent of such a responsibility is to keep the costs of preparing the EA within the limits established between Operator and the third-party contractor.

VIII. Implementation, Amendment, and Termination

This agreement will become effective on the date of the final signature. It may be subsequently amended through written agreements of all signatories. This agreement may be terminated either by OSMRE or DOGM and will end five business days after written notice is received.

Nothing in this agreement will abridge or amend the authorities and responsibilities of OSMRE or DOGM on any matter under their respective jurisdiction.

IX. Documenting Disagreement or Inconsistency

Where the one or more Cooperators disagree on substantive elements of the EA (such as designation of the alternatives to be analyzed or analysis of effects), and these disagreements cannot be resolved, the Cooperator(s) will include a summary of the Cooperator(s) views in the EA. The Cooperator will also describe substantial inconsistencies between its proposed action(s) and the objectives of state, local, or tribal land use plans and policies.

X. Management of Information

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 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.

XII. Conflict Resolution

The Parties agree to make reasonable efforts to resolve procedural or substantive conflicts, and may agree to initiate an Alternative Dispute Resolution process. The Parties acknowledge that OSMRE retains final responsibility for the decisions identified in the EA.

XIII. Sovereign Immunity

Neither signatory waives their sovereign immunity by entering into this MOU, and each fully retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this agreement.



Marcelo Calle, Manager
Program Support Division, OSMRE

11/16/2017
Date



Dana Dean
Associate Director
Utah Division of Oil, Gas and Mining

10/24/17
Date