



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

Certified Mail

March 16, 2010

Ms. Susan Thauer
Christie Pabarue Mortensen and Young
1880 John F. Kennedy Boulevard 10th Floor
Philadelphia, Pennsylvania 19103

Dear Ms. Thauer:

FREEDOM OF INFORMATION ACT REQUEST (FOI 2010-01046)

Your Freedom of Information Act (FOIA) request dated January 15, 2010, addressed to the U.S. Department of Energy, Headquarters FOIA Office has been forwarded to this office for response and was received on March 11, 2010. In that letter you requested documents and any and all investigations relating to the Midnite Mine Superfund Site at the Spokane Indian Reservation and Dawn Mill Site at Ford Washington.

We have conducted a thorough search and the following documents were located: 1) Letter dated July 23, 1998, entitled, "The Department of Energy, Richland Operations Office (RL) Support for Midnite Mine Interim Reclamation Project," and 2) a document entitled, "Trip/Conference Report" dated September 12, 1979, for Midnite Mine in Ford, Washington. No other documents were located. This search was conducted by those within the agency who are most familiar with the subject matter of your request, in locations where documents would most likely be found.

There will be no charge for this information as costs associated with your request were minimal. If you have any questions regarding your request, please contact me at our address above or on (509) 376-6288.

Sincerely,

A handwritten signature in cursive script that reads "Dorothy Riehle".

Dorothy Riehle
Freedom of Information Act Officer
Office of Communications
and External Affairs

OCE:DCR

Enclosures



Department of Energy
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

JUL 23 1998

98-EAP-394

Mr. Joseph K. Buesing, District Manager
BLM Spokane District Office
1103 N. Fancher
Spokane, Washington 99212-1275

Dear Mr. Buesing:

**THE DEPARTMENT OF ENERGY, RICHLAND OPERATIONS OFFICE (RL) SUPPORT
FOR MIDNITE MINE INTERIM RECLAMATION PROJECT**

Please find enclosed two copies of the Memorandum of Understanding (MOU) that I have signed and now forward for your signature. This MOU was initiated by your staff to request support from RL to provide consultant expertise in review of technical documents that your Agency does not currently possess. More specifically, we will assist in review of technical documents for the reclamation of the Midnite Uranium Mine reclamation. After you have signed the MOU, please return one copy of the original for our files.

We look forward to working with you on this project. Should you have any questions please do not hesitate to contact me on (509) 376-5544.

Sincerely,

A handwritten signature in cursive script that reads "James E. Rasmussen".

James E. Rasmussen, Director
Environmental Assurance, Permits
and Policy Division

EAP:DCW

Enclosures

MEMORANDUM OF UNDERSTANDING

FOR MIDNITE MINE INTERIM RECLAMATION INVESTIGATIONS PHASE: 1998-1999

between

United States Department of the Interior
Bureau of Land Management (BLM)

United States Department of Energy
Richland Operations Office (DOE)

I. INTRODUCTION

Dawn Mining Company leased property on the Spokane Indian Reservation and operated the Midnite Uranium Mine since 1955. Mining operations ceased on the site in 1981 and the mine has remained inactive since that time, except for water treatment plant operations. The area disturbed by the mine and associated activities now needs to be reclaimed.

Leases for the mining activities were issued by the Bureau of Indian Affairs (BIA). The Bureau of Land Management (BLM) assumed responsibility for regulating mining activities in 1983 from the former U.S. Geological Survey's (USGS) Conservation Division. It has been determined that BLM will have primary authority for overseeing preparation of an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA) that will focus on reclamation of the site. NEPA Scoping was completed in 1996.

Data has been collected at the site for over ten years. A significant amount of data has been collected, compiled and analyzed by the former U.S. Bureau of Mines (USBM). Because that agency no longer exists, the large body of data developed by USBM has been forwarded to BLM for maintenance and management during the NEPA process. Eventually, most of the information will be provided to the Spokane Tribe or BIA.

In accordance with applicable regulations, an appropriate environmental analysis (EIS or RI/FS) is required as a basis for determining how the site will be reclaimed or remediated. The current activities planned for 1998-99 are intended to facilitate such an analysis, and to provide both agencies with experience and information which will facilitate future similar analyses likely to be necessary for each agency.

II. PURPOSE

The general purpose of this Memorandum of Understanding (the "MOU") is to provide a framework for cooperative effort between BLM and DOE ("the Parties") related to activities and site investigations that will be conducted by Dawn Mining Company and its contractors at the Midnite Mine during 1998 and 1999. More specifically, the purpose of this MOU is to provide a framework by which the DOE can assist BLM in reviewing aspects of the project that relate to radiation health physics. This assistance will provide DOE with data and familiarity with regulatory procedures which are of value to DOE as a means of more efficiently conducting related activities at the Hanford site. It will set forth agreement for the review of data, work plans, technical input, and the development of the data needs regarding the reclamation of the Midnite Uranium Mine (the "Process").

Nothing in this agreement shall preclude any of the parties from interacting with any or all parties involved in

the Process, limit their regulatory authority, nor require any party to exceed their lawful authority, waive lawful rights, or to expend funds in excess of their appropriated resources.

III. AUTHORITY

The authorities related to Public Scoping and/or Mineral Leasing on Indian lands include, but are not limited to:

- A. Economy Act of 1932, as amended stat. 417; 31 U.S.C. 1535
- B. Mineral Leasing Regulations: 43 CFR 3590 and 25 CFR 211, 212, and 216 and related manuals
- C. CEQ Regulations
- D. Federal Land Management and Policy Act of 1976, 43 U.S.C. 1701
- E. National Environmental Policy Act, (P.L. 91-190, 83 Stat. 852 January 1, 1970)

IV. DEFINITIONS

- A. *Process* means collection, analysis and providing technical input on issues relating to the reclamation of the Midnite Uranium Mine Site.
- B. *Scoping Summary Report* is the report that summarizes public issues and concerns raised during the EIS Scoping Phase that is used to develop the scope of work for the EIS.
- C. *Lead Agency* means the U.S. Bureau of Land Management (BLM).
- D. *Cooperating Agency* means the U.S. Department of Energy, Richland Operations Office
- E. *Other Involved Agencies* means other federal and state agencies, including the Bureau of Indian Affairs (BIA), Environmental Protection Agency (EPA), and the Washington Department of Health (WDOH). WDOH has been delegated "State Agreement" authority to enforce Nuclear Regulatory Commission (NRC) and its own requirements relative to radioactive material possession, use, transportation, and disposal at the water treatment plant at the Midnite Mine Site. DOH has a separate agreement with the Spokane Tribe. WDOH's involvement at the mine site is limited to the immediate vicinity of the water treatment plant.
- F. *Tribe* means the Spokane Tribe of Indians, a sovereign nation.
- G. *Contractor* means Shepherd-Miller, Inc., including subcontractors and consultants, employed by Dawn Mining Company to assist and work under the direction of the lead agency.

V. GENERAL OBLIGATIONS OF THE PARTIES (BLM and DOE)

All parties will:

- A. Cooperate, coordinate, provide expertise and technical review, and consolidate procedures to establish efficiency in the process, to the extent that participation does not interfere with the normal operations of any participant nor cause any agency to exceed its statutory or regulatory authority, or any budget

appropriations or allocations.

- B. Actively participate in all appropriate phases of the Process.
- C. Expedite the Process by consolidating meetings, mandatory processes and documents whenever possible.
- D. Identify a primary contact person that will receive information from BLM and distribute that data within their own organization to assure timely and adequate review.
- E. Establish and make their best effort to comply with the time schedule established by agreement with the Companies.
- F. To the extent authorized by law, provide all general and specific information useful to the process, as requested by other parties.
- G. Ensure coordination of effort and exchange of information.
- H. Make their best effort to attend meetings when any particular party's attendance is necessary to provide clarifications, expertise, or in response to a specific issue or Other Agency or public inquiry.

VI. OBLIGATIONS OF LEAD AGENCY (BLM)

- A. The Lead Agency will cooperate, coordinate, provide expertise and technical review, and consolidate procedures to establish efficiency in the Process, in consultation and coordination with the cooperating agency.
- B. In all instances involving questions as to the relevance of any material (including issues, data analyses, and conclusion) obtained or reviewed, the Lead Agency shall make the final determination on the inclusion, deletion, or revision of the material included in the documents and reports.
- C. The Lead Agency shall have the ultimate responsibility for ensuring compliance with all requirements of NEPA regulations and process.
- D. The Lead Agency will continue to make available to the Cooperating Agency any data, information, or documents in its possession which relate to reclamation of the Midnite Uranium Mine, and which are not deemed Proprietary/ Confidential Information as per Title 18 Sec. 1905; 15 U.S.C. 1311-1314, June 25, 1948, ch. 645, 62 Stat. 791; Sept. 12, 1980, Pub. L 96-349 Sec. 7(b), 94 Stat. 1158.
- E. BLM will pay all appropriate travel, per diem and mileage costs of DOE employees who have been cleared to work on the July 1998- June 1999 Midnite Mine Interim Studies project associated with their necessary travel between the Tri-cities, Washington, Spokane, Washington and the Midnite Uranium Mine located on the Spokane Indian Reservation, Washington.

VII. OBLIGATIONS OF COOPERATING AGENCY

A. United States Department of Energy

1. DOE shall provide comments on the radiation health physics aspects of the Project relating to human, environmental, aquatic and terrestrial impacts. This shall also include information relating to the data adequacy and data quality of work plans, proposals, information, analysis and reports submitted by Dawn or it's contractor.
2. DOE agrees to provide analysis as it relates to item VII A.1., above, or review of the work plans, proposals, data, and reports including data adequacy submitted by Dawn or it's contractor, to the extent and within the time frames allowed by DOE work load requirements. DOE agrees to make its best effort to provide comments on the radiation health physics aspects of the Work Plan in order to meet the Interim Agreement imposed deadline of providing comments to the companies within 15 days of receipt.
3. DOE will make available an authorized representative(s) to attend meetings related to Interim Investigation activities so long as these activities do not interfere with normal activities of DOE nor exceed any of its budget appropriations or allocations.

VIII. PROCEDURES

- A. BLM and the Cooperating Agency will review and comment on the documents and reports prepared by the contractors. BLM will provide one (1) copy of the draft documents to the identified contact at the cooperating agency.

IX. TERMINATION

- A. Any party of the MOU may terminate their involvement for any reason upon 30 days written notice to the other parties. During the 30 day period, the parties will actively attempt to resolve any disagreements.
- B. In the event of termination of the MOU, BLM reserves the right to proceed with the EIS process. It is BLM's intent, however, to conduct the project to accommodate and encourage the participation of the cooperating agency.
- C. The MOU will terminate following completion of the 1998-1999 Interim Investigations Phase and no later than the end of 1999.

X. MODIFICATION

This MOU may be extended, and/or supplemented to provide coordination, facilitate communication, and define roles and responsibilities through the balance of the mine reclamation process. At a minimum, the spirit of coordination and open communication will be continued.

This MOU may be modified by the parties hereto by mutual agreed upon written amendment.

XI. MISCELLANEOUS

A. The parties to this agreement will comply with all applicable state, federal, and Tribal law. If any provision of this agreement violates the law, that provision will be void, but the remainder of the agreement will continue to be effective and binding on all parties.

B. Contacts for each participating entity are as follows:

BLM:

Joseph K. Buesing, District Manager
BLM Spokane District Office
1103 N. Fancher
Spokane, Washington 99212-1275

DOE:

James E. Rasmussen, Division Director EAP
Richland Operations Office, Mail Stop AS-15
U.S. Department of Energy
P.O. Box 550
Richland, WA 99352

C. Agencies assume no liability for performance of Interim Investigation activities as a result of their participation in this process. Agencies assume no financial liability or responsibility under this MOU for activities that must be undertaken during this process.

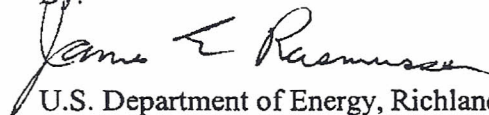
D. This MOU will be effective as of the last date signed below.

By:

Bureau of Land Management

Date:

By:



U.S. Department of Energy, Richland Operations
Office

Date:

7/23/98

START

B042740

23030119.00

TRIP / CONFERENCE REPORT

Report Number

09000-SI-267

Report Issue Date

September 12, 1979

DESTINATION OR CONFERENCE PLACE AND DATE

Organization Name

Midnite Mine

Location

Ford, Washington

Date

9/11/79

PARTICIPANTS (Indicate Part-Time By*)

NAME	TITLE	ORGANIZATION	SIGNATURE (Conferences Only)	<input type="checkbox"/>
R. E. Isaacson		Project Engineering	BASALT	<input type="checkbox"/>

Indicates Copy
Furnished At Meeting

Purpose

Summary Of Results (Significant Agreements, Decisions, Commitments, Accomplishments)

Arrangements were made with Jack E. Thompson, Resident Manager for the Dawn Mining Company (a subsidiary of Newmont Mining Company) to visit the Midnite Mine. The purpose of the trip was to obtain information that might be used for reference purposes in comparing risks and environmental impacts of a nuclear waste repository to the natural environmental burden of a uranium ore deposit.

A tour was made of the mine, the mill, tailings ponds and waste dumps. A number of pictures were taken which will be made available to those interested after they are developed. A number of documents describing the ore deposits were obtained and additional information on radiological surveys, background radiation monitoring, radon gas emanation and geophysical surveys were requested. This information will be disseminated to key individuals as it is obtained.

(Check If Continuation Form Is Used For Report Details)

Signature of Person Preparing Report

R. E. Isaacson

OFFICIAL CONFIRMATION OF CONFERENCE REPORT OR APPROVAL OF TRIP REPORT

Signature

Title

Date

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