

**Memorandum of Understanding**  
**Between**  
**Department of the Interior, Bureau of Land Management, New Mexico State Office**  
**and**  
**Department of Defense, Deputy Under Secretary of Defense (Installations & Environment)**  
**To Designate the Department of Defense Siting Clearinghouse**  
**As a Cooperating Agency for the Preparation of an Environmental Assessment**  
**For the SunZia Southwest Transmission Project**

I. Introduction

This Memorandum of Understanding (MOU) is between the New Mexico State Office of the Bureau of Land Management (BLM) and the Deputy Under Secretary of Defense for Installations and Environment (Department of Defense (DoD)) (individually referred to as a “party” and together referred to as the “parties”). The MOU establishes a cooperating agency relationship between the BLM and the DoD. The DoD will be acting through the DoD Siting Clearinghouse (“Clearinghouse”). The DoD will act as a cooperating agency during the BLM’s preparation of an Environmental Assessment (EA). The BLM is preparing this EA for the SunZia Southwest Transmission Project (SunZia) to determine whether measures proposed by DoD to mitigate potential impacts to military operations and readiness activities, including test and evaluation capabilities, require the BLM to prepare a supplement to the Final Environmental Impact Statement (EIS) published in June 2013, or whether the measures proposed lead to a finding of no new significant impacts. The BLM is the lead federal agency for purposes of federal review of the SunZia project. DoD has proposed mitigation measures to resolve potential impacts to military operations and readiness activities within the area north of White Sands Missile Range (WSMR) known as the “call-up area.” One of the four mitigation measures includes burying three segments of the transmission line of at least five miles within the “call up” area. As part of the analysis to determine whether BLM must supplement the Final EIS, BLM acknowledges that the DoD has jurisdiction by law over WSMR and special expertise applicable to the military operations and readiness activities occurring in the designated restricted airspace above the “call up” area for the proposed mitigation measures. This MOU describes responsibilities and procedures agreed to by 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) and the Department of the Interior Manual (516 DM 2.5).

## II. Purpose

The purpose of this MOU is:

- A. To designate the DoD as a cooperating agency for the EA.
- B. To provide a framework for cooperation and coordination between the BLM and the DoD that will ensure successful completion of the EA in a timely, efficient, and thorough manner.
- C. To recognize that the BLM is the lead agency with responsibility for the completion of all analysis required by NEPA and the Finding of No Significant Impact or Notice of Intent to supplement the Final EIS.
- D. To describe the respective responsibilities, jurisdictional authority, and expertise of each of the parties in the review 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.) (NEPA).
  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. Department of the Interior NEPA-implementing regulations (43 CFR 46 et seq.).
- C. The authorities of DoD to enter into this MOU include, but are not limited to:
  1. Secretary of Defense (10 U.S.C. 113).
  2. National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
  3. Federal Land Policy and Management Act of 1976 (943 U.S.C. 1701 et seq.).
  4. Council on Environmental Quality regulations (40 CFR 1501 et seq.).
  5. Section 358 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011.

6. Part 211 of title 32, Code of Federal Regulations, *Mission Compatibility Evaluation Process*.

#### IV. Roles and Responsibilities

##### A. BLM Responsibilities:

1. As lead agency, the BLM retains final responsibility for the content of all NEPA documents. With respect to the current analysis, the BLM's responsibility is to determine whether the proposed mitigation measure requires BLM to supplement the Final EIS pursuant to 40 CFR 1502.9(c)(1). The BLM will analyze whether the proposed mitigation measure constitutes a substantial change to the proposed action analyzed in the Final EIS or significant new circumstances or information relevant to environmental concerns. The BLM is electing to make this determination through the form of an EA. 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 analyses provided by the Clearinghouse as part of the analysis in the EA, giving particular consideration to the four proposed mitigation measures specified in the letter from the Under Secretary of Defense (Acquisition, Technology & Logistics) to BLM Director, dated June 4, 2014.
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 entities, the BLM will provide the Clearinghouse with copies of documents underlying the analysis in the EA relevant to the DoD's responsibilities, including technical reports, data, analyses, comments received, working drafts related to environmental reviews, and draft and final EA.

##### B. Cooperating Agency Responsibilities:

1. The DoD is a cooperating agency for this EA and is recognized to have jurisdiction by law and special expertise in the following areas:
  - a. Jurisdiction by law with regards to national surface/defense mission management responsibilities on lands administered by and under the jurisdiction of the DoD.
  - b. Special expertise concerning national defense and airspace management responsibilities under the jurisdiction of the DoD.

- c. Specific jurisdiction by law and special expertise as it relates to WSMR and special expertise applicable to the military operations and readiness activities occurring in the designated restricted airspace above the “call-up” area.
2. The Clearinghouse will provide information, comments, and technical expertise to the BLM regarding those elements that relate to mitigation measures DoD proposes to resolve potential impacts to military operations readiness activities in the call-up area. This includes information and data necessary for BLM to determine whether the proposed mitigation measures represent substantial changes to the proposed action analyzed in the Final EIS or significant new circumstances or information relevant to environmental concerns.

C. Responsibilities of the Parties:

1. The parties agree to make all reasonable efforts to resolve disagreements between them.
2. Each party agrees to fund its own expenses associated with the development of the EA.

V. Other Provisions

- A. Authorities not altered. Nothing in this MOU alters, limits, or supersedes the authorities and responsibilities of either party on any matter within its respective jurisdiction. Nothing in this MOU shall require either of the parties to perform beyond its respective authority.
- B. Financial obligations. This MOU does not commit nor obligate funds nor does it create any obligation on the part of either party to expend funds or other resources.
- 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 EA. Questions regarding potential conflicts of interest should be referred to the appropriate ethics counselors for resolution.
- E. Documenting disagreement or inconsistency. Where the BLM and one or more cooperators disagree on substantive elements of the analysis in the EA, and these disagreements cannot be resolved, the BLM will include a summary of the DoD’s views in the Draft EA and the Proposed Final EA.

- F. Management of information. The DoD acknowledges that all supporting materials and draft documents, other than For Official Use Only (FOUO) and classified material, 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 and the DoD agree not to release any project materials to the general public, including the media, without first consulting on the release and determining it is appropriate.
- G. Conflict resolution. If the parties deem it necessary, they agree to retain an independent facilitator to foster effective communication.
- H. Coordination with contractors. The BLM's third-party environmental contractor – Environmental Planning Group (EPG) – serves as the BLM's contractor for the overall NEPA documentation, which includes duties such as public involvement, data collection, environmental analysis, and documentation preparation. The Clearinghouse may provide information and comments directly to the contractor and collaborate with the contractor's technical staff and subcontractors on matters within the DoD's jurisdiction by law or special expertise. The DoD acknowledges that the BLM retains the exclusive responsibility to authorize modifications to the contract with EPG, and the DoD is not authorized to provide technical or policy direction concerning the performance of this contract.

#### VI. Agency Representatives

Each party will designate a representative and alternate representative, as described in Attachment A, to ensure coordination between the cooperator and the BLM during the planning process. Each party may change its representative at will by providing written notice to the other party.

#### VII. Administration of the MOU

- A. Approval. This MOU becomes effective upon signature by the authorized officials of the BLM and the DoD.
- B. Amendment. This MOU may be amended through written agreement of the BLM and the DoD.
- C. Termination. If not terminated earlier, this MOU will end when the BLM New Mexico State Director issues a decision for the EA. Either party may end its participation in this MOU by providing written notice to the other party.
- D. Effective date. This MOU becomes effective on the latter date of the signatures of the parties' authorized officials.

VIII. Signatures

The parties hereto have executed this MOU on the Cooperating Agency Relationship for the Sun Zia Southwest Transmission Project on the dates shown below.

Department of the Interior  
Bureau of Land Management  
New Mexico State Office

*for* Alba L. Seidlitz  
Jesse Juen  
New Mexico State Director

10/24/14  
Date

Department of Defense  
Office of the Deputy Under Secretary of Defense  
(Installations and Environment)

John Conger  
John Conger  
Acting Deputy Under Secretary of Defense  
(Installations and Environment)

10/15/2014  
Date

Attachment:  
As stated

**Attachment A**  
**Agency Representatives**

Bureau of Land Management

Environmental Assessment: SunZia Southwest Transmission Project

Primary Representative: Adrian Garcia – BLM Project Manager  
Phone – (505)954-2199  
E-Mail Address -- [Adrian\\_Garcia@blm.gov](mailto:Adrian_Garcia@blm.gov)  
Physical Address – Bureau of Land Management  
New Mexico State Office  
301 Dinosaur Trail, Santa Fe, NM 87508

Backup Representative: Debby Lucero -- Lead Realty Specialist  
Phone – (505) 954-2196  
E-Mail Address --- [Debby\\_Lucero@blm.gov](mailto:Debby_Lucero@blm.gov)  
Physical Address – same as above

Department of Defense – Siting Clearinghouse

Primary Representative: Michael A. Aimone, P.E., Executive Director  
DoD Siting Clearinghouse  
Phone – (571) 372-6745  
E-Mail Address – [michael.a.aimone.civ@mail.mil](mailto:michael.a.aimone.civ@mail.mil)  
Physical Address – 3000 Defense Pentagon,  
Washington D.C. 20301-3000

Backup Representative: William J. Van Houten, Deputy Director  
DoD Siting Clearinghouse  
Phone – (703) 571-9068  
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