



THE JICARILLA APACHE NATION

P.O. BOX 507 • DULCE, NEW MEXICO • 87528-0507

RESOLUTION OF THE LEGISLATIVE COUNCIL

PUBLIC SAFETY & NATRUAL RESOURCES/OIL & GAS ADMINISTRATION

RE: Approval of Memorandum of Understanding Between the Jicarilla Oil and Gas Administration, the Jicarilla Environmental Protection Office, the Bureau of Land Management-Farmington Field Office, and the Bureau of Indian Affairs Jicarilla Agency for the Purpose of Cooperation in Performing Routine Oil and Gas Regulatory Activities

Resolution No. 2017-R-142-04

WHEREAS, the Legislative Council of the Jicarilla Apache Nation ("Nation") has the authority to exercise all inherent powers of the Jicarilla Apache Nation and is responsible for supervision of and decision making on all Nation's Natural Resources, including Oil and Gas (petroleum) Leases pursuant to the Jicarilla Apache Nation Revised Constitution, Article XI; and

WHEREAS, a number of overlapping regulatory activities require the Nation, through the Jicarilla Oil and Gas Administration ("JOGA") and the Jicarilla Environmental Protection Office ("EPO"), to coordinate and perform regulatory activities with the Bureau of Land Management-Farmington Field Office ("BLM-FFO") and the Bureau of Indian Affairs Jicarilla Agency ("BIA-JA") on a regular and ongoing basis, which include but are not limited to well permitting, undesirable events, and reclamation activities; and

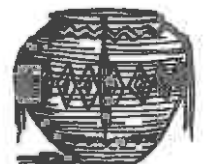
WHEREAS, in order for the Nation to fully exert its sovereignty in these areas, to the extent legally possible, and to do so in the most effective and efficient way possible, it is clear that an MOU is necessary between the parties in order to create a framework that will allow regulatory activities to be conducted in a coordinated and organized manner; and

WHEREAS, the Memorandum of Understanding ("MOU") expressly limits resource expenditures from all parties to resources that are currently or routinely funded through the normal course of business.

NOW, THEREFORE, BE IT RESOLVED, the Legislative Council of the Jicarilla Apache Nation hereby authorizes the President or Vice President of the Jicarilla Apache Nation to execute the attached Memorandum of Understanding between the Jicarilla Oil and Gas Administration, the Jicarilla Environmental Protection Office, the Bureau of Land Management-Farmington Field Office, and the Bureau of Indian Affairs Jicarilla Agency for the purpose of cooperation in performing routine oil and gas regulatory activities with no additional funding necessary.



Vice President of the Nation – Edward Velarde



PUBLIC SAFETY & NATRUAL RESOURCES/OIL & GAS ADMINISTRATION

RE: Approval of Memorandum of Understanding Between the Jicarilla Oil and Gas Administration, the Jicarilla Environmental Protection Office, the Bureau of Land Management-Farmington Field Office, and the Bureau of Indian Affairs Jicarilla Agency for the Purpose of Cooperation in Performing Routine Oil and Gas Regulatory Activities

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CERTIFICATION

The foregoing Resolution was enacted upon by the Legislative Council of the Jicarilla Apache Nation on the 4th day of April, 2017, by a vote of 8 for, 0 against, and 0 abstained, at a duly called meeting at which a quorum of the Legislative Council members were present.

ATTEST:



Secretary of the Nation – Merldine Oka

Memorandum of Understanding (MOU)

Between

Department of Interior, Bureau of Land Management - Farmington Field Office;

Department of Interior, Bureau of Indian Affairs - Jicarilla Agency; and

Jicarilla Apache Nation, Jicarilla Oil and Gas Administration and

Environmental Protection Office

I. Introduction

This Memorandum of Understanding (MOU) sets forth the terms of cooperation between Bureau of Land Management Farmington Field Office (BLM/FFO), Bureau of Indian Affairs (BIA), Jicarilla Agency, and Jicarilla Apache Nation (JAN), specifically Jicarilla Oil and Gas Administration (JOGA), and the Environmental Protection Office (EPO). It defines the operational role of trust responsibilities for each agency that will allow collective enforcement of oil and gas surface regulatory requirements on Jicarilla Apache Nation Tribal Land.

The former Tri-Partite MOU between BLM, BIA, and Office of Natural Resource Revenue (ONRR) has been replaced with Onshore Energy and Mineral Lease Management Interagency Standard Operating Procedures (SOP), effective September 17, 2013, with insertion of Addendum 1, dated September 23, 2013.

II. Purpose

The purpose of this MOU is to:

- Establish common standards and methods for creating efficient and effective working relationships and accountability for JAN Leases.
- Identify standard operating procedures for lease management activities that involve BLM, BIA, JOGA and EPO.
- Identify division of responsibilities specifically regarding the following activities:
 - Application for Permit to Drill
 - Undesirable Events
 - Reclamation

III. Authorities for the MOU

BLM is required, inter alia, to enforce BLM Gold Book, On-Shore Orders, Notice to Lessee (NTL) and 43 Code of Federal Regulations (CFR); BIA implementation includes, inter alia, 25 Code of Federal Regulations (CFR), Part 211 and the National Environmental Policy Act (NEPA); JOGA adheres to the Jicarilla Apache Nation (JAN), Title 18, Oil and Gas Code; EPO is required to enforce Title 14, Environmental Protection Code.

IV. Roles and Responsibilities

A. Application for Permit to Drill (APD)

Operator Responsibilities:

- 1) Submit Plan of Development to JOGA.
- 2) Complete BLM Notice of Staking (NOS) form.
- 3) Identify well location and footages to be included on plat(s).
- 4) Submit land survey to JOGA for further processing.
- 5) Submit archeological survey to BIA for further processing.
- 6) Complete New Mexico state form C-102.
- 7) Submit plat(s) to JOGA.
- 8) Onsite coordination with JOGA.
- 9) Submit complete APD application to BLM for further processing; refer to Onshore Order #1 for more information on components of a "complete APD application", though in general a complete application includes:
 - a. APD Form 3160-3
 - b. Well Plat
 - c. Drilling Plan
 - d. Surface Use Plan of Operations (SUPO); components include:
 - i. Roads (new and existing)
 - ii. Location of existing wells w/in 1 mile radius
 - iii. Location of existing/proposed production facilities to be installed if well is successful

- iv. Location and types of water supply
 - v. Construction materials
 - vi. Methods for handling waste
 - vii. Ancillary facilities
 - viii. Well site layout
 - ix. Plans for surface reclamation, per BLM/FFO Bare Soil Reclamation Procedures
 - x. Surface ownership
 - xi. Other info as required by applicable orders and notices (43 CFR 3162.3-1(d)(4)); e.g., weed management plan. *NOTE: Operator will coordinate with Jicarilla-Apache Nation EPO concerning invasive/noxious weed treatments.*
- e. Bonding
 - f. Operator Certification

10) Submit environmental assessment (EA) to BIA for further processing.

11) Payment for surface damage fee, made payable to JAN, must be submitted to BIA for further processing.

JOGA Responsibilities:

- 1) Schedule and review Plan of Development of entire Lease and/or Lease holdings with Operator.
- 2) Receive BLM NOS form for record.
- 3) Notify affected range unit operator.
- 4) Attach tracking sheet to NOS/APD packet.
- 5) Schedule onsite within five (5) working days following receipt of NOS.
- 6) Provide three (3) week notice of scheduled onsite to Operator, BLM, BIA, all applicable department representatives, and affected and adjoining range unit operator. Minimum representation must consist of Operator, JOGA and BIA.
- 7) Address and document any issues and concerns during onsite, with the intent to secure initial consensus.

- 8) Additional comments must be submitted by close of business, following the date of onsite. No response will be considered as consent for further processing.
- 9) Cultural clearance must be approved by JAN Tribal Historic Preservation Office (THPO) and submitted to JOGA.
- 10) Final APD packet will include concurrence correspondence, conditions of approval (COA), special and standard stipulation(s), roads policy, and approved cultural clearance, which must be submitted to BIA for further processing. Courtesy copies of correspondence will be provided accordingly.

BIA Responsibilities:

- 1) Review BLM NOS form, provided by BLM.
- 2) Attend scheduled onsite, conducted by JOGA, and submit comments accordingly.
- 3) Forward archeological survey, submitted by Operator, to BIA Southwest Regional Office (SWRO) for further processing.
- 4) Review EA submitted by Operator to identify and clarify any discrepancies, then distribute accordingly.
- 5) Provide copy of EA to all applicable department representatives for 30-day public review process.
- 6) A cultural resources survey (CRS) report must be completed by BIA SWRO, Division of Environmental, Safety and Cultural Resources Management. The CRS report must be submitted to BIA Jicarilla Agency and serves as official Federal notification that the National Historic Preservation Act section 106 compliance has been completed.
- 7) Collect payment for surface damage fee, made payable to JAN, for further processing.
- 8) Where appropriate, BIA will generate a finding of no significant impact (FONSI) and attach additional COA's or stipulation(s), following, the EA, 30-day public review.
- 9) Final APD packet will include BIA decision record, JOGA final APD packet (concurrence correspondence, COAs, stipulations, road policy and cultural clearance), SWRO CRS Report and FONSI.
- 10) Submit final BIA APD packet to BLM for further processing. Courtesy copy of BIA decision record will be submitted to JOGA.

BLM Responsibilities:

- 1) Review and forward NOS form, submitted by Operator, to JOGA and BIA.
- 2) Review and forward complete APD application, submitted by Operator, to JOGA and BIA for proper record.

- 3) Attend scheduled onsite, conducted by JOGA, and submit comments accordingly.
- 4) Review APD packet, submitted by BIA, to determine final approval or denial, via BLM APD form 3160-3.
- 5) If approved, the final approval of APD Form 3160-3 must be submitted to Operator. Courtesy copies of APD form 3160-3 and its inclusions will be submitted to JOGA, BIA and New Mexico Oil Conservation Division (NMOCD).
- 6) Coordinate with JOGA and BIA to regulate construction of the approved location and its facility(s) to determine the interim reclamation process, specifically emphasizing restoration of the buffer/construction zone, well pad, access road and pipeline.

B. Undesirable Events

BLM has responsibility for all inspection and operations-related enforcement on all Federal and Indian Lands. However, supplemental MOU's may govern agency responsibilities. BLM and ONRR will process undesirable events (i.e. spill and avoidable losses).

Operator Responsibilities:

- 1) Notify BLM, BIA, JOGA and EPO. All undesirable events must be reported immediately if possible, but not later than twenty-four (24) hours after the event.
- 2) Provide written report to BLM, which must be submitted within fifteen (15) days, of the date of event. Report must include initial notification and remediation plan.
- 3) Coordinate and conduct sampling and remediation activities.

JOGA Responsibilities:

- 1) Receive notice from Operator, which must be submitted within twenty-four (24) hours.
- 2) Review written report.
- 3) Coordinate with BLM, BIA and EPO to ensure sampling and remediation occur as appropriate. *NOTE: Process must entail the use of State Standards as outlined in the 1993, "Unlined Surface Impoundment Closure Guidelines".*

BLM Responsibilities:

- 1) Receive notice from Operator, which must be submitted within twenty-four (24) hours.
- 2) Receive, review and forward written report, submitted by Operator, to BIA, JOGA and EPO.
- 3) Coordinate with JOGA, BIA and EPO to ensure sampling and remediation occur as appropriate. *NOTE: Process must entail the use of State Standards as outlined in the 1993, "Unlined Surface Impoundment Closure Guidelines".*

BIA Responsibilities:

- 1) Receive notice from Operator, which must be submitted within twenty-four (24) hours.
- 2) Review written report from BLM.
- 3) Coordinate with BLM, JOGA and EPO to ensure sampling and remediation occur as appropriate. *NOTE: Process must entail the use of State Standards as outlined in the 1993, "Unlined Surface Impoundment Closure Guidelines".*

C. Reclamation of Legacy Well Location(s)

Legacy well location(s) are plugged and abandoned sites that have been cemented, however, no reclamation activity has occurred, or a final abandonment notice (FAN) may have been issued or may not have been issued, but not approved. BLM is responsible for the administration and approval of all reclamation; final authorization is granted by the BLM signatory on the sundry notice (SN). As a provision of the APD process, an initial interim reclamation plan must be submitted by the Operator.

Operator Responsibilities:

- 1) Submit sundry notice (SN) form 3160-5 for plug and abandonment activity to BLM.
- 2) Attend reclamation onsite to determine the extent and nature of reclamation required for each location.
- 3) Submit final reclamation plan to BLM and JOGA for further review and processing.
- 4) Coordinate with JAN EPO concerning invasive/noxious weed treatments.

JOGA Responsibilities:

- 1) In coordination with BLM, issue regulatory correspondence to Operators requesting an onsite inspection of the abandoned well location which has not been reclaimed, completed or upgraded.
- 2) Receive SN for plug and abandonment activity from BLM
- 3) Coordinate with BLM, BIA and Operator to schedule and attend a reclamation onsite to determine the extent and nature of reclamation required. JOGA will take the lead on scheduling the onsite. Provide input as appropriate. All attempts should be made to reach a consensus while all Parties are present at the onsite. Modification requests by any party after an onsite has been conducted must have valid justification and will not be considered until all Parties (Operator, JOGA, BLM, and BIA) have been consulted. Disputes and/or disagreements by the Parties will be further resolved by administrative representatives of the three agencies, BLM, BIA and JOGA.
- 4) Review reclamation plan, provided by BLM, and submit comments to BLM.

- 5) Coordinate with BLM and BIA to determine final approval or disapproval of proposed reclamation plan. *NOTE: BLM will approve or submit modifications accordingly.*
- 6) Review SN and provide comments to BLM and BIA accordingly.
- 7) Coordinate with BLM, BIA, JAN Revenue and Taxation and ONRR to determine bond termination and relinquishment requests following successful reclamation and collection of all monetary payment(s). *NOTE: ONRR will regulate the level of effort required to release the bond.*
- 8) Submit official response to BIA requesting release of bond accordingly.

BLM Responsibilities:

- 1) In coordination with JOGA, issue regulatory correspondence to the Operator requesting an onsite inspection of the abandoned well location which has not been reclaimed, completed or upgraded.
- 2) Receive SN from Operator and forward to BIA and JOGA.
- 3) Coordinate with Operator, BIA and JOGA to schedule and attend reclamation onsite to determine the extent and nature of reclamation required. BLM will take the lead on conducting the onsite unless previously agreed upon by all Parties. All attempts should be made to reach a consensus while all Parties are present at the onsite. Changes made after an onsite has been conducted will not be considered until all Parties (Operator, JOGA, BLM, and BIA) have been consulted. Disputes and/or disagreements by the Parties will be further resolved by administrative representatives of the three agencies, BLM, BIA, and JOGA.
- 4) Address and document any issues or concerns, with the intent to secure consensus.
- 5) Review and forward reclamation plan, submitted by the Operator, to BIA and JOGA for comment.
- 6) Coordinate with BIA and JOGA to determine final approval or disapproval of proposed reclamation plan, then approve or submit modifications accordingly.
- 7) Review SN. Where appropriate, provide final FAN approval by way of BLM certified correspondence of SN transmittal and SN Form 3160-5, FAN.

BIA Responsibilities:

- 1) Coordinate with Operator, BLM and JOGA to schedule and attend reclamation onsite to determine the extent and nature of reclamation required. All attempts should be made to reach a consensus while all Parties are present at the onsite. Changes made after an onsite has been conducted will not be considered until all parties (Operator, JOGA, BLM, and BIA) have been consulted. Disputes and/or disagreements will be further resolved by administrative representatives of the three agencies, BLM, BIA and JOGA.

- 2) Review reclamation plan, provided by BLM, and submit comments accordingly.
- 3) Coordinate with BLM and JOGA to determine final approval or disapproval of proposed reclamation plan. *NOTE: BLM will approve or submit modifications accordingly.*
- 4) Review SN and provide comments to BLM and JOGA accordingly. Coordinate with BLM, JOGA, JAN Revenue and Taxation and ONRR to determine bond termination and relinquishment requests, following successful reclamation and collection of all monetary payment(s). *NOTE: ONRR will regulate the level of effort required to release the bond.*
- 5) Submit official correspondence to Operator, releasing bond where appropriate.

V. Other Provisions

A. Participation

Each regulatory agency will be responsible for sufficient involvement. Failure to participate in onsites, or notify BLM of absence, will result in inability to make changes to the approved reclamation plan.

BLM will provide field inspection report(s) to unavailable participants. JOGA must notify all participants following cancellations and/or reschedule accordingly.

B. Reporting

Each regulatory agency will be responsible for sufficient reporting. It is the responsibility of all representatives to provide tracking of data and adhere to the goals set forth in this MOU. Semi-annual or as needed meetings to discuss progress and/or concerns will be scheduled accordingly.

C. 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.

D. Funding

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.

E. Modifications

Each regulatory agency will be responsible for sufficient modification(s) to this MOU by mutual consent of authorized officials. Changes will be effective until terminated.

VI. Administration of the MOU

A. Approval

This MOU becomes effective upon signature by the authorized officials of the Parties involved.

B. Amendment

This MOU may be amended through written agreement of all signatories.

C. Renewal and Termination

This MOU will renew automatically following a review every five years. Any Party may end its participation or request termination of the MOU by providing written notice to the other Parties.

VII. Signatures

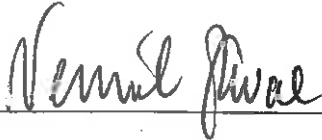
Each regulatory agency agrees that this MOU may be signed in counterparts and that such signatures have the same legal effect as a single instrument. This MOU is executed on this 27th day of January, 2017 and made effective immediately following the date of final approval from the below indicated approving official(s).



1/27/17

Victoria Barr, District Manager
Bureau of Land Management, Farmington District Office
6251 College Blvd, Suite A
Farmington, NM 87402


Date



04/10/2017

Verinda Reval, Superintendent
Bureau of Indian Affairs, Jicarilla Agency
P.O. Box 167
Dulce, NM 87528

Date

Initialed and Approved by  30 March 2017
Guillermo De Herrera
Director of Jicarilla Oil and Gas Administration (JOGA)



3/30/17, and

Director of Jicarilla Environmental Protection Agency (EPO)



4-6-17

Wainwright Velarde, President
Jicarilla Apache Nation
P.O. Box 507
Dulce, NM 87528

Date

Resolution No. 2017-R-142-04