

**Memorandum of Understanding
To Participate in the
Powder River Basin Interagency Working Group
On
Coal Bed Natural Gas Development**

A. Purpose

The purpose of this Memorandum of Understanding (MOU) is to set forth the intentions of the parties, insofar as they are compatible with each agency's primary mission, to participate in and carry out the mission of the Powder River Basin Coal Bed Natural Gas Interagency Working Group (PRB IWG) as provided for in its Charter dated December 2003 (attached). The purpose of the PRB IWG is to provide a forum for local, state, tribal, and federal government agencies to work together to discuss and address issues of common concern among the parties involved in permitting and monitoring coal bed natural gas (CBNG) development. Through this cooperative management effort each agency will achieve greater operational efficiency, enhance resource protection, and better serve the public. The mission of the PRB IWG is to:

1. Provide for environmentally sound energy development.
2. Develop coordinated and complementary best management practices, guidelines, and programs related to CBNG activities to conserve and protect resources.
3. Monitor the impact of CBNG activities and assess the effectiveness of mitigating measures.
4. Develop and integrate the databases and scientific studies needed for effective resource management and planning, and to make that information readily available.
5. Promote compatibility in the application of each agency's mission.

It is agreed that the PRB IWG may modify its Charter from time to time as experience is gained in carrying out its mission.

B. Geographic Scope

The geographic scope of the PRB IWG is the Powder River Basin ecoregion within the States of Montana and Wyoming. The PRB IWG will coordinate its activities with affected/interested parties throughout the Powder River Basin and surrounding areas to provide a consistent ecosystem approach. Issues related to South Dakota will be coordinated with the agencies in South Dakota as necessary.

C. Effect, Modification and Term

This agreement shall become effective for each party upon the signature of its respective representative. The agreement may be modified by written document signed by the participants. Any party may withdraw from this agreement, in whole or in part, at any time before the

expiration date upon 60 days written notice to the other parties. This agreement is due to expire on January 1, 2009 unless terminated or extended.

D. Authorities

- a. Economy Act, 31 U.S.C. 1535.
- b. Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*
- c. Federal Clean Water Act of 1972, as amended
- d. Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 *et seq.*
- e. Fish and Wildlife Coordination Act, 48 Stat. 401, as amended; 16 U.S.C. 661 *et seq.*
- f. Migratory Bird Treaty Act, 16 U.S.C. 703.
- g. Montana Code Annotated, Section 2-15-112.
- h. National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321-4347
- i. Wyoming Department of Environmental Quality, Environmental Quality Act W.S. 35-11-109(viii)
- j. Wyoming Game and Fish Commission, W.S. 23-1-302 (a)(x) and (xi)
- k. Wyoming State Engineer's Office, W.S. 9-1-902 (b)

E. Relationship to Land Management Plans

Activities of the PRB IWG are intended to be consistent with and support the implementation of approved plans that have been developed for the lands managed by the Bureau of Land Management; the Forest Service; the National Park Service; the Fish and Wildlife Service; Montana or Wyoming State management plans, programs, environmental laws, and rules; and consistent with tribal natural resource management plans for adjacent tribal lands.

F. No Delegation, Abrogation, or Waiver of Sovereign Immunity

Agencies that are parties to this MOU recognize that they each have statutory responsibilities that cannot be delegated, and that this MOU does not and is not intended to abrogate any of their statutory responsibilities. Agencies that are parties to this MOU do not need consensus of or review by the other party agencies to take any action or implement any policy or procedure within their individual authority. No party hereto waives its sovereign immunity.

G. Funds

Insofar as it is compatible with each agency's primary mission and statutory responsibilities, all parties agree to use their best efforts to secure the funding needed to carry out the approved projects of the PRB IWG and agree to develop efficient means for transferring funds among said parties to carry out the mission of the PRB IWG. Specific work projects or activities that involve the transfer of funds, services, or property between parties to this MOU will require the execution of separate agreements or contracts and are contingent upon the availability of funds. All parties agree and understand performance under this MOU is dependent upon the lawful appropriation, authorization, and allocation of funds. Each subsequent agreement or arrangement involving the transfer of funds, services, or property between parties to the MOU must comply with all applicable statutes and regulations, including those statutes and regulations applicable to procurement activities, and must be independently authorized by appropriate

statutory authority.

H. Participant Signatures

Each party, upon signature of their respective official, can implement this agreement. Signing by all of the parties listed below is not required prior to implementing this MOU among the participating agencies.

Federal Agencies

Omaha District Engineer, USACE Date

Regional Forester, FS Region 1 Date

Rocky Mtn. Regional Director, BIA Date

Regional Forester, FS Region 2 Date

Montana State Director, BLM Date

Regional Director, USGS Date

Wyoming State Director, BLM Date

Regional Director, NPS Date

Department of Energy, Date

Tribal Governments

Regional Administrator, EPA Date

Chairman, Crow Tribe Date

Montana State Director, FWS Date

President, Northern Cheyenne Tribe Date

Wyoming State Director, FWS Date

State of Montana

Board of Oil and Gas Conservation Date

Rosebud County, Montana Date

Bureau of Mines and Geology Date

Director, DEQ Date

Director, DNRC Date

Director, Fish, Wildlife & Parks Date

Board of Oil and Gas Conservation Date

Bighorn County, Montana Date

Custer County, Montana Date

Powder River County, Montana Date

State of Wyoming

Wyoming Game and Fish Commission Date

State Historic Preservation Date

State Oil and Gas Conservation Commission Date

Director, DEQ Date

State Engineer Date

State Planning Office Date

Campbell County, Wyoming Date

Converse County, Wyoming Date

Johnson County, Wyoming Date

Sheridan County, Wyoming Date

Approved as to form:

Jennifer A. Golden, Deputy Attorney General
