

# **ENVIRONMENTAL OVERSIGHT AND MONITORING AGREEMENT**

## **(Agreement in Principle)**

### **Between the United States Department of Energy and the State of Idaho**

1. This Agreement in Principle (Agreement) is voluntarily entered into by the United States Department of Energy (DOE), under the authority of 42 U.S.C. §7101 et. seq., and the State of Idaho (State) under the authority of Article IV, Section 5 of the Idaho Constitution and Idaho Code § 39-105. DOE's designated lead for purposes of this Agreement is the DOE's Idaho Operations Office (DOE-ID) and DOE's Naval Reactors Laboratory Field Office/Idaho Branch Office (NRLFO/IBO). The State's designated lead for purposes of this Agreement is the Department of Environmental Quality (DEQ). This Agreement replaces the Environmental Oversight and Monitoring Agreement between the DOE and the State executed on September 2, 2010; provided, however, that payments contemplated by #DE-EM000744 will continue as provided for until its expiration. Grant #DE-EM0003530 will replace #DE-EM000744 after its expiration.

2. This Agreement reflects the understanding and commitment between the State and the DOE, referred to as the Parties, for oversight and monitoring functions regarding the Idaho National Laboratory (INL) Site through core activities designed to produce comprehensive, current information for the Parties and the public. The DOE agrees to provide the State technical and financial support for State activities as described in this Agreement. The State agrees that the use of funds authorized by this Agreement shall be used only for services, personnel, and equipment that are directly related to Agreement activities. To the extent that personnel or services are used for

both Agreement and non-Agreement activities, the State shall allocate its costs and charge to the Agreement grant only that portion of the cost of the personnel or services that is used to support Agreement program activities.

3. To achieve the goals of this Agreement, the Parties agree as follows:
  - a) Each has a responsibility to provide accurate information. In carrying out this Agreement, the Parties will fully cooperate and coordinate with each other and with other federal agencies and local and tribal governments affected by this Agreement. The Parties will keep each other informed of Memoranda of Understanding or Memoranda of Agreement that affect the Agreement and the expenditure of Agreement funds.
  - b) Hazard and risk assessments form the basis for all emergency management planning activities. Consolidated planning, preparedness and training will enhance each Party's ability to participate in a coordinated emergency response among federal, state, local and tribal authorities for DOE fixed facilities in Idaho. To coordinate the planning process only, divisions currently in place to distinguish among on-site, off-site and transportation emergencies are removed. Emergency response and preparedness will be designed to achieve a fully coordinated local, state, federal and tribal emergency management and response capability for all DOE activities at the INL Site and non-DOE activities conducted in Idaho.
  - c) To assure the DOE's activities are protective of the health and safety of Idahoans and the environment, the Parties agree to continue communication and coordination

efforts to address monitoring and related protocols that need to be attained or improved.

- d) The State will perform actions set forth in the annual Scope of Work which is incorporated by reference and made part of this Agreement. The intent of these State actions is to maintain an independent, impartial, and qualified oversight program within the DEQ, to assess the potential impacts of present and future DOE activities in Idaho; to assure the citizens of Idaho that all present and future DOE activities in Idaho are protective of the health and safety of Idahoans and the environment; and to communicate the findings to the citizens of Idaho in a manner which provides them the opportunity to evaluate potential impacts of present and future DOE activities in Idaho. The State will discuss the progress of actions with the DOE in periodic meetings.
- e) The DOE will provide an open review of INL Site-related activities and continue its commitment to responsible environmental management. The DOE will discuss the progress of actions with the State in periodic meetings.
- f) The DOE and State signatories to this Agreement shall each designate a coordinator within 30 days of signature of this Agreement, whose responsibilities include assuring implementation and coordination of the provisions of this Agreement. Unless otherwise provided, all correspondence, reports, documents or notifications required by this Agreement will be submitted to the coordinators.

g) The DOE will ensure that the State has access to all relevant information relating to the INL Site generated by or available to the DOE, including monitoring data relating to the INL Site. The DOE agrees to allow the State access to the facility hazard assessment process. In carrying out the provisions of this Agreement, the Parties will comply with the INL Site environment, safety and health requirements for activities on the site; security, classification, “need-to-know,” and unclassified sensitive information laws and regulations; Privacy Act, Freedom of Information Act, and Idaho Public Records Act requirements to the extent applicable; trade secret, patent and related confidentiality requirements; or any other applicable laws, regulations and executive orders. The DOE will only provide the State with copies of documents, or sections of documents, marked as “Official Use Only,” if the State determines those documents, or sections of documents, are exempt from disclosure under the Idaho Public Records Act. If the State determines those documents, or sections of documents are not exempt from the Idaho Public Records Act, the DOE will not provide copies of those documents, or sections of those documents, but will make them available for the State’s review on the DOE’s premises. The State has determined the INL Site facility hazards assessments are exempt from disclosure under the Idaho Public Records Act. This section is not intended to affect or impair the DOE's ability to review, on a case-by-case basis, whether information protected from disclosure should be re-evaluated for release to the State.

- h) This Agreement will in no way diminish or expand the Parties' authority to fully carry out their rights and responsibilities under applicable laws and regulations or other agreements, nor will it affect the Parties' ability or right to raise any defenses available under law in the event of any administrative or judicial action. Subject to applicable security, classification, and other confidentiality laws and regulations, nothing in this Agreement shall prohibit the Parties from using information developed under this Agreement to further their statutory duties, rights and obligations.
- i) The Parties to this Agreement further understand that the oversight activities authorized by this Agreement are intended to supplement activities conducted under applicable environmental laws and regulations, but not to support specific State regulatory, permitting, and legally required environmental oversight activities, such as issuance of regulatory permits, the review of the DOE regulatory submissions when such review serves primarily as the basis for State action under regulatory programs, required regulatory inspections, required monitoring, and issuance of regulatory notices of violations or other citations, nor to provide financial support to the Site Specific Advisory Board(s).
- j) Instead, the Agreement is intended to support the non-regulatory activities of the State in working with the DOE to evaluate the adequacy of DOE activities related to environmental monitoring and the potential for environmental or public health and safety impacts and to support periodic State monitoring of discharges,

emissions, or biological parameters as necessary to verify the effectiveness of the DOE programs. The Agreement recognizes the continued need for the State to have access to DOE facilities and to exchange relevant technical information with the DOE to support the State's environmental monitoring efforts and evaluation of potential public health or safety impacts. The parties to this Agreement understand that the Agreement does not represent an extension or enlargement of any regulatory authority that the State has under applicable laws.

- k) The DOE will provide the State resources for State actions to carry out the annual Scope of Work through grant mechanisms consistent with the DOE financial assistance rules, 10 CFR Part 600, Subpart H. All funds provided to the State under this Agreement are federal funds to be administered exclusively by the State. The DOE and the State will take all necessary steps and use their best efforts to obtain timely funding to meet their commitments under this Agreement. The Parties' obligation to conduct activities under this Agreement is subject to the availability of funds and technical resources. The DOE and the State will jointly review the level of funding on a year-to-year basis and will meet annually to mutually develop schedules for State activities under the grant in the upcoming year at the INL Site. The annual funding level assessment will be based on the DOE's budget for that year, the State's timely submittal of an annual proposed scope of work, and consideration of actual expenditures from the previous program year. However, the DOE funding obligations under this Agreement may be suspended or terminated by

the DOE, in whole or in part, in accordance with applicable federal assistance administration laws and regulations if the State is not in compliance with the terms and conditions of a grant. The DOE must provide the State ninety (90) days' prior written notice specifying any suspension of the terms or termination of a grant.

Unless the DOE and the State agree otherwise, or unless the suspension is for cause, no period of suspension shall last longer than ninety (90) days. Should the grant be suspended for cause, corrective action must be taken by the State before the DOE will end the suspension. Should new programs be developed at the INL Site which require additional State resources, the Parties may negotiate for additional funds.

No provision of this Agreement shall be interpreted to require obligation or payment of funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 341.

- l) The Parties recognize that the responsibilities, costs and obligations provided in the "Federal Facilities Agreement/Consent Order" are separate from this Agreement and will not be covered by this Agreement.
- m) To assist their efforts, the State and the DOE may develop procedures describing the steps to be taken for routine actions including, but not limited to, those described below:
  - ◆ interface with DOE contractors
  - ◆ requests for documents
  - ◆ management of documents
  - ◆ other procedures as specified by either Party.

Both Parties shall follow procedures as mutually approved by the designated coordinators. The designated coordinators may mutually agree to modify, amend or terminate these procedures.

4. Facilities and operations under the cognizance of the Naval Reactors Laboratory Field Office/Idaho Branch Office (NRLFO/IBO) are co-located at the INL Site. This Agreement provides for a non-regulatory interface between the State and the NRLFO/IBO. The liaisons for each party will be the Manager, Naval Reactors Laboratory Field Office/Idaho Branch Office, and the Director of the Idaho Department of Environmental Quality.

Emergency Planning and Preparedness for NRLFO/IBO activities, including those at the Naval Reactors Facility, are incorporated into the overall INL Site preparedness program so that coverage of this area is provided by the applicable provisions in this Agreement as implemented in coordination with DOE-ID.

Environmental surveillance for the NRLFO/IBO will be carried out consistent with current practices including any non-regulatory practices previously agreed as a matter of comity. Any changes in non-regulatory surveillance will be by mutual consent of the liaisons.

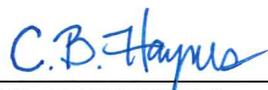
5. This Agreement is in effect through September 30, 2020, and may be extended as mutually agreed. This Agreement shall only be amended, modified or terminated by the written mutual agreement of both Parties. The DOE and the State will promptly commence discussions to modify this Agreement as appropriate to address any new federal, state or local issues that arise relating to conditions or activities at the INL Site that could affect public health, safety or the environment.

6. Grant # DE-EM0003530, is expected to provide approximately 1.4 million dollars per year for a 5-year period to support the commitments in this Agreement. This Agreement can serve as a conduit for more than one grant instrument from any number of DOE programs. However, the scope of work described in additional grants must fall within the goals of this Agreement. Each separate grant mechanism will provide funds to the State consistent with the DOE financial assistance rules identified in Paragraph 3(k) of this Agreement.

NOW, THEREFORE, the Parties sign this Agreement in consideration of the provisions set forth above and pledge their cooperation and good faith in achieving the purposes and goals of this Agreement.

  
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**JOHN H. TIPPETS, Director**  
**Idaho Department of Environmental**  
**Quality**  
Date: 8/31/15

  
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**RICHARD B. PROVENCHER**  
**Manager for Idaho Operations Office**  
Date: 7/14/15

  
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**C.B. HAYNES, Manager**  
**Naval Reactors Laboratory Field Office/**  
**Idaho Branch Office**  
Date: 8/20/15