

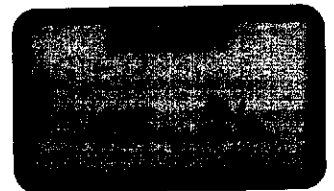
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LAND QUALITY DIV.  
DIST. II

**SUPPLEMENT TO**  
**MEMORANDUM OF UNDERSTANDING NO. WY 19**  
**BETWEEN THE**  
**UNITED STATES DEPARTMENT OF THE INTERIOR**  
**BUREAU OF LAND MANAGEMENT**  
**AND THE**  
**WYOMING DEPARTMENT OF ENVIRONMENTAL QUALITY**  
**LAND QUALITY DIVISION**  
**FOR**  
**MANAGEMENT OF SURFACE MINING AND EXPLORATION FOR**  
**LOCATABLE MINERALS**  
**ON**  
**PUBLIC LANDS**

This is a Supplemental Memorandum to the general statewide Memorandum of Understanding (MOU) dated October, 1975, between the Governor of Wyoming and the United States by and through the State Director, Bureau of Land Management, Wyoming, United States, Department of the Interior.



This is a supplement to the general statewide Memorandum of Understanding (MOU), Number WY 19, dated October 1975, between the Governor of Wyoming and the United States by and through the State Director, Bureau of Land Management (BLM), Wyoming, U.S. Department of the Interior. This MOU replaces the MOU dated April 1990, signed by Governor Mike Sullivan and Bureau of Land Management Associate State Director F. William Eikenberry. That MOU replaced a Cooperative Agreement dated September 1981, signed by Governor Ed Herschler and BLM State Director Maxwell T. Lieurance.

#### A. Background

The Wyoming Department of Environmental Quality (WDEQ), Land Quality Division (LQD) and the Department of the Interior, Wyoming State Office, Bureau of Land Management (BLM) desire to work cooperatively to efficiently and effectively manage locatable mineral exploration and mining on Public lands. Public lands, as defined in 43 United States Code (U.S.C.) 1702 means any land and interest in land owned by the United States within the several States and administered by the Secretary of the Interior through the BLM, without regard to how the United States acquired ownership, except: (1) Lands located on the Outer Continental Shelf; and (2) Lands held for the benefit of Indians, Aleuts, and Eskimos, within the United States. In Wyoming, examples of locatable minerals may include, but not be limited to, gold, silver, copper, nickel, lead, zinc, platinum, diamonds, uranium, gypsum, bentonite, kaolinite, silica sand, zeolites, and uncommon varieties of pumice, sand, gravel, clay, limestone, or any other mineral that meets the requirements of the discovery test of the General Mining Law of 1872. The LQD regulates exploration and mining on all lands under Article 4 of the Wyoming Environmental Quality Act (W.S. § 35-11-401 *et seq.*).

#### B. Purpose

The purpose of this MOU Supplement, hereafter referred to as MOU, is to:

1. Foster Federal-State coordination of procedures for the prevention of unnecessary or undue degradation as defined in 43 CFR (Code of Federal Regulations) 3809.5 with respect to locatable mineral operations on Public lands and to foster responsible land use with respect to mineral operations on Public lands under existing laws and regulations;
2. Prevent unnecessary administrative delay pursuant to 43 CFR 3809.200;
3. Prevent, to the degree allowed by law, duplication of administration and enforcement of reclamation regulations governing the exploration for, or mining of, minerals locatable under the Federal mining laws described in 43 CFR 3809; and
4. Minimize impacts to and ensure proper reclamation of those lands affected by exploration and/or mining.

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C. Authority

This MOU is made under the authority of the general statewide MOU between BLM and LQD. Specifically, the BLM's participation in this MOU is authorized by 43 CFR 3809.200, which provides for a joint Federal-State program for State administration and enforcement of regulations in effect or due to come into effect, relating to unnecessary or undue degradation of the surface of Public lands disturbed by exploration for, or mining of, minerals locatable under the Federal mining laws as defined by 43 CFR 3809.5 and lands which contain minerals reserved to the United States. The State's participation in this MOU is authorized by W.S. §§ 9-2-121, 35-11-102, and 35-11-109(a)(ii), which recognize the policy of securing cooperation between agencies of the State and the Federal government in carrying out cooperative programs which are not inconsistent with the constitution and laws of the State.

D. Area of Cooperation

The BLM and LQD jointly agree that:

1. General

- a. The BLM and LQD shall, as the situation dictates, exercise appropriate responsibility and jurisdiction for the review and approval of all exploration and mining activity for locatable minerals on Public land and land with Federal reserved mineral estate. Each agency shall coordinate separate authorizations and exchange information to the degree necessary to prevent inconsistent action.
- b. The BLM and LQD shall assume responsibility for coordinating with the other agency for the review of permits, licenses, notices or plans of all exploration and mining operations on Public lands.
- c. The LQD will have lead responsibility for analyzing information regarding legal estates, landowner interests other than the BLM on and within ½ mile of the proposed area, data and analysis of impacts related to climatology, hydrology, overburden, soils, vegetation, wildlife, and wetlands.
- d. The BLM will have lead responsibility for analyzing archeological and paleontological resources, noxious weed issues, National Environmental Protection Act (NEPA) concurrence, and the Endangered Species Act (ESA) on Public lands.
- e. The agencies agree it is the responsibility of the operator to submit requests for any required permits, licenses, notices or plans to BLM and LQD.
- f. The review of any permits, licenses, notices or plans shall be in accordance with the time schedules set in the attached BLM and LQD "Wyoming

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- g. Operating Guidelines: Surface Mining Regulations for Locatable Minerals on Public Lands." Each agency shall notify the other agency of it's review schedule when comments should be received, subject to the other agency's need for additional time.
- h. The application for a permit, license, notice or plan shall contain information to satisfy all the requirements of the BLM and LQD in one document.
- i. No permit, license, notice or plan shall be granted without the concurrence of the other agency. A copy of all independent correspondence with the applicant shall be promptly forwarded to the other agency.
- j. A committee, consisting of representatives from BLM field offices and LQD district offices and one each from the BLM and LQD State-level offices, shall be established to review and/or modify operating guidelines established in this MOU. In accordance with 43 CFR 3809.201, meetings to review this MOU shall be held as needed.
- k. The BLM and LQD shall require improved access routes on Public lands to be part of the acreage included in the permit, license, notice or plan.
- l. The BLM shall be responsible for ensuring that the operator has legal right to mine (i.e. valid mining claims) and shall promptly notify LQD if there is no right to mine.
- m. The BLM shall satisfy any duties it may have under 43 CFR 3809.203 and 43 CFR 3809.411.

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2. Bonding (Financial Guarantee)

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- a. ~~The LQD shall establish the bond amount~~ on Public lands required by 43 CFR 3809.500 and W.S. §35-11-417. The bond will be redeemable by both the Secretary of Interior and the State. The BLM shall review for bond adequacy and respond to LQD with concurrence or recommendations for modification. BLM's bonding authority is restricted to only the Public lands portion of the permit area where plans of operations or notices have been approved or accepted.
- b. The LQD shall hold all bonds until release is authorized in writing by both agencies.
- c. The BLM and LQD agree that the operator shall be responsible for providing updated reclamation bond estimates annually. Both the BLM and LQD shall review for bond adequacy. The BLM will respond to LQD within forty-five (45) days of receipt of the bonding information and give concurrence or recommendations for modification.

- d. In the event of a bond forfeiture, LQD will administer the reclamation contract; therefore, Public land administrative fees (43 CFR 3809.554) would not apply.

3. Inspection and Enforcement

- a. Both agencies shall conduct inspections as needed to meet their individual regulatory requirements.
- b. All inspection reports and pertinent correspondence produced by one agency shall be promptly exchanged with the other as soon as they are completed.
- c. The BLM shall have the primary inspection responsibility for drilling activities occurring on Public lands.
- d. The LQD shall have the primary inspection responsibility for License to Explore, Limited Mining Operations, and Regular and Small Mining Operations.
- e. Inspections should be conducted jointly where possible. Each agency shall notify the other, to the extent practicable, in scheduling the opportunities to conduct joint inspections. However, either agency may initiate independent inspections.
- f. Each agency shall promptly notify the other of all violations of applicable laws, regulations, permits, permit requirements, and appropriate actions proposed or taken with respect to such violations.
- g. Representatives of BLM and LQD shall be available to serve as legal witnesses in enforcement actions taken by either party.
- h. Suction dredging shall comply with 43 CFR 3809.31 and 3809.200(b). LQD agrees to send BLM copies of all recreational gold dredging forms authorized which involve Public lands within fifteen (15) days of receipt. These authorizations state that permission from all surface and mineral owners and land management agencies be obtained prior to prospecting. Pursuant to 43 CFR 3809.31, BLM may establish specific areas where a notice or a plan will be required. In these specific areas BLM will be responsible for reviewing the notice and/or plan. The BLM will inform LQD whether Federally listed threatened or endangered species or their habitat may be affected by the proposed activities. BLM will inform LQD if any necessary mitigating measures may be required. Operations must not begin until BLM completes consultation or conferencing under the ESA.

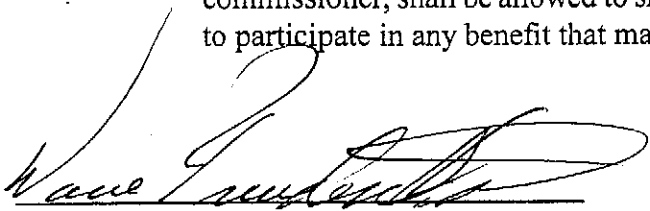
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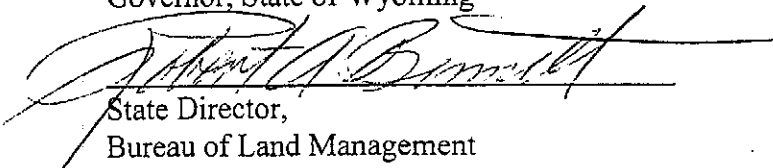
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**E. Administrative and Legal Provisions**

1. Nothing in this MOU will be construed as limiting or affecting in any way the authority or responsibility of the LQD or BLM or as binding on either party to perform beyond their respective authority or to require either party to assume or expend any monies in excess of appropriations available.
2. This MOU shall become effective as soon as signed by both parties and shall continue in force until formally terminated by either party. The termination shall follow a sixty (60) day notice in writing to the other agency regarding their desire to terminate the MOU. The MOU must be reviewed for adequacy and effectiveness as needed.
3. Amendments to this MOU may be proposed by either party and shall become effective upon approval in writing by both parties.
4. Any problems which cannot be resolved by the committee (see D(1)(i) above) shall be referred to the next higher level of authority for resolution. Unless otherwise specified, this will be the BLM Deputy State Director of Minerals & Lands and the LQD Administrator.
5. Officials Not to Benefit: No member of, or delegate to Congress, or any resident commissioner, shall be allowed to share in any part of this MOU, or shall be allowed to participate in any benefit that may arise from this MOU.

  
\_\_\_\_\_  
Governor, State of Wyoming

11/19/03  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
State Director,  
Bureau of Land Management

11/19/03  
\_\_\_\_\_  
Date

Attachment: Wyoming Operating Guidelines: Management of Surface Mining & Exploration for Locatable Minerals on Public Lands

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