

Instruction Memorandum No. 2004 –

To: All WO, SO, and FO Officials

From: Assistant Director, Renewable Resources and Planning

Subject: The Scope of Collaboration in the Cooperating Agency Relationship

**Purpose:** In response to recent controversies over a number of Bureau planning efforts, this Instruction Memorandum highlights the need to clarify the respective roles of cooperating agencies and BLM's field managers in BLM's planning process. Specifically, it reiterates the need to establish well defined expectations and sideboards, to ensure that all parties have a realistic understanding of decision making.

**Background:** The Bureau strongly supports the engagement of cooperating agencies in developing resource management plans. See Information Bulletin 98-200 (9/28/98) and IM-2002-149 (4/19/02). The goals of the cooperating agency relationship include:

- gaining early and consistent involvement;
- incorporating local knowledge of economic and social conditions;
- addressing intergovernmental issues;
- avoiding duplication of effort;
- enhancing the local credibility of the review process; and
- building relationships of trust and collaboration for long-term mutual gain.

Cooperating agency status provides a formal framework for governmental units – local, state, tribal, or federal – to engage in active collaboration with a lead federal agency to implement the requirements of the National Environmental Policy Act (NEPA: 42 U.S.C. 4321, et seq). Federal and state agencies, and local and tribal governments may qualify as cooperating agencies because of “jurisdiction by law or special expertise” (40 CFR 1501.6 and 1508.5).

**Action Requested:** State Directors should discuss the following issues with their field managers to ensure that an appropriate balance is found between collaborating with cooperating agency partners, and producing a resource management plan that is timely and consistent with the Bureau's mission and policies.

**Collaboration:** The Federal Land Policy and Management Act (FLPMA, 43 U.S.C. 1712(c)(9)) mandates that BLM coordinate all planning it undertakes with the plans of other federal agencies, state agencies, and local and tribal governments. The cooperating agency relationship goes beyond FLPMA's coordination requirement by offering the opportunity for BLM managers and staff to *collaborate* with their counterparts from other federal and state agencies, and local and tribal governments in shaping BLM's resource management plans.

As noted in IB 2003-113, “A more consistent understanding and approach to collaboration is needed, starting with the field manager's role in stating up front expectations, establishing sideboards, and controlling the planning and decision-making processes.” Like other potential BLM partners, the parties involved in cooperating agency relationships have a range of views regarding what such collaboration in our

planning process entails. When cooperators and BLM managers and staff lack a common understanding of the ground rules and goals of such collaboration, the result can be delay, frustration, and mistrust. The following points are intended to provide clarification.

- The BLM Planning Handbook (H-1601-1, Glossary) defines collaboration as “a cooperative process in which interested parties, often with widely varied interests, work together to seek solutions with broad support for managing public and other lands.” Collaboration mandates methods, not outcomes. Collaboration *does not* imply that parties will achieve consensus.
- Collaboration *increases* the need to establish sideboards for the planning process. These limits to the decision-space are best established through clear planning criteria. As representative of the lead agency, BLM’s field manager has the responsibility to clarify for cooperating agencies the general goals of the resource management plan, including where appropriate the range of potential allocations consistent with statutory and regulatory requirements. Nonetheless, neither BLM nor cooperating agencies should look upon these goals as definitively limiting the types of decisions BLM may make at the end of the planning process.
- Collaboration with cooperating agencies can be a time consuming process. Nonetheless, cooperators’ preferences regarding the pace and direction of collaborative planning efforts do not supersede the need to adhere to established planning schedules. The manager must do everything feasible to keep the planning process moving, to stay on schedule and within budget.
- Collaboration with cooperating agencies does not alter BLM’s responsibility for decision making within its jurisdiction. This responsibility within BLM’s resource management process cannot be delegated to cooperating agencies. This is particularly important at two key decision points: designating alternatives for further analysis; and identifying a preferred alternative.
- IB 2003-113 (7/23/03), “The Manager’s Role in the Land Use Planning Process,” offers useful guidance applicable to each stage of collaboration with cooperating agencies in shaping a resource management plan.

**Formalizing the Cooperating Agency Relationship:** BLM’s relationships with cooperating agencies are usually formalized through memoranda of understanding (MOUs). While the existence of an MOU will not transform a difficult relationship into a productive one, it can reduce the chance for friction and misunderstanding by describing each side’s goals and expectations, and identifying how they will work together. See Attachment 1.

There is no standard language for a cooperating agency MOU. As shown in the attached example, however, a number of elements should be included. Of particular importance are:

- Introduction (Background) and Purpose. The purpose of the MOU; BLM’s responsibility for the planning action; and the cooperator’s interests, expertise, and jurisdiction (if applicable) relative to the planning process.

- Agreement. The roles of each party in the planning process, including contractors if applicable; particular interests and areas of expertise of the cooperating agency relative to the plan; procedures for information sharing and confidentiality; how the cooperator's comments, recommendations, and data will be used in the planning process; anticipated schedule; any other expectations of the parties; and how disagreements will be resolved.

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