

**MEMORANDUM OF AGREEMENT  
BETWEEN THE  
UNITED STATES DEPARTMENT OF ENERGY, IDAHO OPERATIONS OFFICE  
AND THE  
IDAHO STATE HISTORIC PRESERVATION OFFICE  
REGARDING THE SUBSURFACE DISPOSAL AREA CAP AT THE  
RADIOACTIVE WASTE MANAGEMENT COMPLEX**

**WHEREAS** the U.S. Department of Energy, Idaho Operations Office (DOE-ID) intends to construct a soil cap over the Radioactive Waste Management Complex (RWMC) Subsurface Disposal Area at the Idaho National Laboratory (INL) Site pursuant to DOE/ID-11359, Record of Decision for RWMC Operable Unit 7-13/14, and DOE/ID-12015, Final Design Report Project No. 32611 Operable Unit 7-13/14 Phase 3 Subsurface Disposal Area Evapotranspiration Surface Barrier; and

**WHEREAS** the DOE-ID intends to remove soil from Spreading Area B, on the INL Site in Butte County, Idaho, to construct the soil cap over the 97-acre Subsurface Disposal Area (the undertaking); and

**WHEREAS** the DOE-ID has defined the undertaking's area of potential effects in INL/LTD-17-42583, Cultural Resource Investigations within Spreading Areas A and B on the Idaho National Laboratory; and

**WHEREAS** the DOE-ID initiated consultation with the Idaho State Historic Preservation Office (SHPO) in accordance with Section 106 of the National Historic Preservation Act, 54 USC 300101 (NHPA), and its implementing regulations (36 CFR 800); and

**WHEREAS**, pursuant to 36 CFR 800.5, the DOE-ID determined the undertaking will have adverse effects on a historic emigrant trail known as Goodale's Cutoff (Smithsonian number 10BT2145), an archaeological site that is eligible for inclusion in the National Register of Historic Places, and the Idaho SHPO concurred the determination the undertaking will result in adverse effects; and

**WHEREAS**, in accordance with 36 CFR 800.6(a)(1), the DOE-ID has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with the specific documentation, and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR 800.6(a)(1)(iii), and

**NOW THEREFORE**, the DOE-ID and the Idaho SHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the undertaking on historic properties.

## STIPULATIONS

### I. MITIGATION

- A. The DOE-ID shall complete a comprehensive historic context statement for Goodale's Cutoff (10BT2145) by June 1, 2020. The context will provide an overview of the emigrant trail, as well as documentation specific to the segment of the trail that traverses the INL Site.
- B. The DOE-ID shall submit the Goodale's Cutoff Context, as well as the updated site record for 10BT2145 (including classification of the INL trail segments according to National Park Service Standards) to the Idaho SHPO in advance of ground disturbing operations at Spreading Area B and the relevant information will be used to complete Stipulation I.C below to make the information available to the public.
- C. The DOE-ID shall ensure that an interpretive panel measuring four feet by eight feet is developed and constructed to provide historic information regarding the role of Goodale's Cutoff (10BT2145) in Euroamerican migration. This panel will be designed in coordination with the Idaho SHPO and placed either at the Lost River Rest Area, located on Highway 20, or a public area adjacent to Experimental Breeder Reactor I.

### II. DURATION

This Memorandum of Agreement (MOA) will expire if its terms are not carried out by December 31, 2023. Prior to that, the DOE-ID and the Idaho SHPO may consult to reconsider the terms of this MOA and amend it in accordance with Stipulation III below.

### III. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. Any necessary amendment will be executed in accordance with 36 CFR 800.6(c)(7).

### IV. TERMINATION

If the DOE-ID or the Idaho SHPO determines that the terms of this MOA will not or cannot be carried out, that party shall immediately consult with the other party to attempt to develop an amendment per Stipulation III above. If within thirty (30) days (or other time period agreed to by all signatories) an amendment cannot be reached, either signatory may terminate this MOA upon written notification of the other signatory.

Once this MOA is terminated, and prior to work continuing on the undertaking, the DOE-ID must either (a) execute an MOA pursuant to 36 CFR 800.6 or (b) request, take into account, and respond to comments of the ACHP under 36 CFR 800.7. The DOE-ID shall notify the Idaho SHPO as to the course of action it will pursue.

## V. ANTI-DEFICIENCY CLAUSE

This MOA is subject to the Anti-Deficiency Act (31 USC Section 1341). The DOE-ID responsibilities under this MOA are contingent upon the availability of appropriated funds from which payment, if any, can be made. Should funds not be available to allow the DOE-ID to meet its responsibilities, it will defer its final decision(s) on implementing the undertaking until it has re-initiated consultation and complied with 36 CFR 800.4 through 800.7 as applicable.

Execution of this MOA by the DOE-ID and the Idaho SHPO, and implementation of its terms, evidence that the DOE-ID has taken into account the effects of the undertaking on historic properties and has afforded the Idaho SHPO an opportunity to comment.

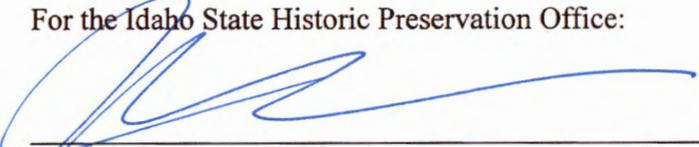
## SIGNATORIES:

For the U.S. Department of Energy, Idaho Operations Office:

  
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Connie M. Flohr, Manager  
Department of Energy, Idaho Cleanup Project

Date: 3/4/2020

For the Idaho State Historic Preservation Office:

  
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Janet L. Gallimore, State Historic Preservation Officer  
Idaho State Historic Preservation Office

Date: 3/13/2020