

ENVIRONMENTAL OVERSIGHT AND MONITORING AGREEMENT

(Agreement in Principle)

Between the

United States Department of Energy, Idaho Operations Office;

United States Department of Energy, Naval Reactors Laboratory Field Office/Idaho Branch Office;

and the State of Idaho, Department of Environmental Quality

1. This Agreement in Principle (Agreement) is voluntarily entered into by the United States Department of Energy's Idaho Operations Office ("DOE-ID"), and Naval Reactors Laboratory Field Office/Idaho Branch Office ("NRLFO/IBO") (collectively "DOE"), under the authority of 42 U.S.C. §7101 et. seq., and 50 U.S.C. §2401 et seq., and the State of Idaho Department of Environmental Quality ("State") (collectively the "Parties"), under the authority of Article IV, Section 5 of the Idaho Constitution and Idaho Code § 39-105. This Agreement replaces the Environmental Oversight and Monitoring Agreement between the DOE and the State executed on August 31, 2015; provided, however, that payments contemplated by #DE-EM0003530 will continue as provided for until its expiration. Grant #DE-EM0005208 will replace #DE-EM0003530 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. DOE-ID 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 in connection with 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 the 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 the non-DOE activities conducted in Idaho. Memorandum of Understanding DE-GM07-06ID11472 between the state of Idaho and DOE-ID describes the overall coordination of

emergency preparedness activities for response to emergencies at the INL Site and the resources DOE-ID will provide to the State for radiological emergencies that originate on the INL Site.

- c) To assure the DOE's activities are protective of the health and safety of the public 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 State actions with the DOE in periodic meetings.
- e) The scope of work shall comply with the following Safety Clause. The DOE Idaho Operations Office and Idaho Cleanup Project Core (ICP) [collectively Idaho Operations Office and ICP, DOE-ID], and Naval Reactors Facility contractors (hereafter referred to as site contractors) are responsible for the safe conduct of operations at the Idaho National Laboratory (INL) Site and within facilities they occupy or control. DEQ work at the INL Site and any of these

facilities must be performed in a manner that is consistent with the procedures established by these contractors that apply to site access controls, safeguards and security requirements, and the safe conduct of work. This includes Field Work procedures issued by INL Site contractors. The DOE will provide the Field Work procedures at the start of this Agreement and provide updates as they are issued over the course of this Agreement. DEQ is responsible for the training and safety of individuals working for DEQ and is obligated to ensure their fitness for duty.

Normal work hours at the INL Site are from 7:00 A.M. to 5:30 P.M. on Monday through Thursday. Normal work hours at the Idaho Falls INL facilities are from 7:00 A.M. to 5:00 P.M. on Monday through Thursday and on alternating Fridays. Normal working hours for the Naval Reactors Facility are from 7:00 A.M. to 4:00 P.M. Monday through Thursday, and 7:00 A.M. through 3:00 P.M. Friday. Work outside of these hours shall require advance notification to, and approval from, the appropriate site contractor authority. The site contractors and all INL Site employees have the right to stop any activity, if continuation of that activity would either be considered an imminent danger situation or have a negative impact on the environment, safety or health of the site, the workers or the public. It shall be mandatory in the event of any such "stop work," that all work shall cease pending DOE notification and resolution of the issue. An imminent danger situation exists when any condition or practice could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such danger can be eliminated through enforcement procedures.

A negative impact on the environment, safety or health of site workers or the public includes situations that result in unplanned releases to the environment, uncontrolled exposures to workers or the public, or programmatic failures that could result in these situations. The DOE will resolve any disagreement between DEQ and the site contractors regarding the application of these requirements. This clause does not affect other obligations DEQ has under law or contract to conduct activities in a manner that is safe to people and the environment.

- f) 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.
- g) 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.
- h) 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, each Party will comply with applicable 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, or when mutually agreed upon, in a secure digital location. 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.

- i) 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.

- j) The Parties to this Agreement further understand that the oversight activities authorized in connection with 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 DOE Environmental Management Site Specific Advisory Board(s).
- k) Instead, the Agreement is intended to support the non-regulatory activities of the State in working with the DOE to evaluate the adequacy of the 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 the 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.

- 1) DOE-ID 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, 2 CFR Part 910. All funds provided to the State under this Agreement are federal funds to be administered exclusively by the State. DOE-ID 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. DOE-ID 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-ID'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-ID funding obligations under this Agreement may be suspended or terminated by the DOE-ID, 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.

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. § 1341.

- m) 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.
- n) 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 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 the 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, 2025, 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-EM0005208, is expected to provide approximately 1.55 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 the 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.

7. This Agreement is neither a fiscal nor funds obligation document. Nothing in this Agreement authorizes, nor is intended to obligate, any Party to expend, exchange, or reimburse funds, services, or supplies or transfer or receive anything of value, or enter into any contract, assistance agreement, or other financial obligation.

8. This Agreement is not legally enforceable and will not be construed to create any legal obligation on the part of any party. This Agreement will not be construed to provide a private right of action for or by any person or entity.

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.

JESS BYRNE, Director
State of Idaho
Department of Environmental Quality

Date: _____

ROBERT BOSTON, Manager
Department of Energy
Idaho Operations Office

Date: _____

MICHAEL H. HUTH, Manager
Department of Energy
Naval Reactors Laboratory Field Office/Idaho Branch Office

Date: _____