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Program Authority: 20 U.S.C. 1087aa *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*

Dated: March 17, 2005.

Theresa S. Shaw,

Chief Operating Officer, Federal Student Aid.

[FR Doc. 05–5639 Filed 3–21–05; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

DEPARTMENT OF THE INTERIOR

Memorandum of Understanding Between the Department of the Interior and the Department of Energy

AGENCIES: Office of Environmental Management, Department of Energy, and Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of draft memorandum of understanding.

SUMMARY: The Department of Energy (DOE) and the Department of the Interior (DOI) plan to enter into a Memorandum of Understanding (MOU), no later than six months after the publication of this draft MOU. The purpose of the MOU is to describe how the Departments will cooperate in transferring administrative jurisdiction for certain lands within the Rocky Flats Environmental Technology Site (Rocky Flats) from DOE to DOI and the transition of Rocky Flats from a defense nuclear facility into the Rocky Flats National Wildlife Refuge (the Refuge). The text of the draft MOU is set forth below.

DATES: Comments on the draft MOU are due by May 23, 2005.

ADDRESSES: Comments should be sent to: U.S. Department of Energy, Office of Environmental Management, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Matthew Duchesne, of the Office of Environmental Management, at the address in the **ADDRESSES** section; telephone (202) 586–6540. This is not a toll-free number.

Authority: The Rocky Flats National Wildlife Refuge Act of 2001, Public Law 107–107, Title XXXI, Subtitle F (December 28, 2001).

Signed at Washington, DC, on March 15, 2005.

Paul M. Golan,

Principal Deputy Assistant Secretary for Environmental Management, Department of Energy.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior.

Implementation of the Rocky Flats National Wildlife Refuge Act of 2001

I. Purpose, Authority, and Scope

A. Purpose

This Memorandum of Understanding (MOU) is entered into by the U.S. Department of Energy (DOE) and the U.S. Department of the Interior (Interior), hereinafter referred to as the Parties, regarding the Rocky Flats Environmental Technology Site (Rocky Flats), Colorado. This MOU describes how the Parties will cooperate in transferring administrative jurisdiction (the transfer) of certain lands within Rocky Flats from DOE to Interior and the transition of Rocky Flats from a former defense nuclear facility to the Rocky Flats National Wildlife Refuge (Refuge).

B. Authority

The authority for this MOU is section 3175 of the Rocky Flats National Wildlife Refuge Act of 2001, Public Law 107–107, sections 3171 to 3182 (Dec. 28, 2001) (the Act), 16 U.S.C. 668dd note.

C. Scope

The Act requires that the Parties carry out the transfer of administrative jurisdiction pursuant to an MOU that:

1. Provides for the division of responsibilities between the Secretary of Energy and the Secretary of the Interior necessary to carry out such transfer of lands that will become the Refuge;
2. Addresses the impacts that any property rights referred to in section 3179(a) of the Act may have on the management of the Refuge, and provide strategies for resolving or mitigating these impacts;
3. Identifies the land the administrative jurisdiction of which is to be transferred to the Secretary of the Interior; and
4. Specifies the allocation of the Federal costs incurred at the Refuge after the date of such transfer for any site investigations, response actions, and related activities for covered substances.

II. Background

A. The majority of the Rocky Flats site has generally remained undisturbed since its acquisition by the Federal Government.

B. The State of Colorado is experiencing increasing growth and development, especially in the metropolitan Denver Front Range area in the vicinity of the site. That growth and development reduces the amount of open space and thereby diminishes for many metropolitan Denver communities the vistas of the striking Front Range mountain backdrop.

C. The Act provides that after the cleanup and closure of Rocky Flats, it shall thereafter be retained by the United States and managed so as to preserve the value of the site for open space and wildlife habitat.

D. Rocky Flats provides habitat for many wildlife species, including a number of threatened and endangered species, and is marked by the presence of rare xeric tallgrass prairie plant communities. Establishing the site as a unit of the National Wildlife Refuge System will promote the preservation and enhancement of those resources for present and future generations.

E. The mission of the National Wildlife Refuge System is to administer a national network of lands and waters for the conservation, management, and, where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans (16 U.S.C. at 68dd(a)(2)).

F. Section 3177 of the Act provides that the Refuge shall be managed for the purposes of: Restoring and preserving native ecosystems; providing habitat for, and population management of, native plants and migratory and resident wildlife; conserving threatened and endangered species (including species that are candidates for listing under the Endangered Species Act of 1973 (16 U.S.C. 11531 *et seq.*)); and providing opportunities for compatible scientific research. Management of the Refuge shall ensure that wildlife-dependent recreation and environmental education and interpretation are the priority public uses of the Refuge.

G. Section 3175 of the Act provides that the transfer of administrative jurisdiction will be completed without cost to Interior.

H. Section 3175 of the Act also provides that the transfer of administrative jurisdiction will not result in a reduction in funds available to DOE for cleanup and closure of Rocky Flats.

I. This MOU complies with the foregoing requirements of the Act and also addresses opportunities for cooperation between the Parties on issues related to management of natural resources prior to the transfer of administrative jurisdiction. Further, this MOU addresses post transfer issues related to oversight, operation, maintenance, and monitoring of response actions.

J. Nothing in this MOU shall relieve, and no action may be taken under this MOU to relieve, DOE, Interior, or any other person from any liability or other obligation at Rocky Flats under CERCLA, RCRA, or any other Federal or State law.

III. Definitions

A. CERCLA

The term "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 *et seq.*).

B. Cleanup and Closure

The term "Cleanup and Closure" means the response actions for covered substances carried out at Rocky Flats, as required by any of the following:

1. The Rocky Flats Cleanup Agreement (RFCA)
2. CERCLA;
3. The Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 *et seq.*; and
4. The Colorado Hazardous Waste Act (CHWA), sections 25–15–101 to 25–15–327, Colorado Revised Statutes.

C. Consultation

In the context of this MOU, the term "Consultation" means normal discussion which will occur between Interior and DOE whenever either Party seeks advice or exchanges information. As used herein, "consultation" does not imply consultation under provisions of section 7 of the Endangered Species Act unless explicitly stated as such.

D. Covered Substance

The term "Covered Substance" means any of the following:

1. Any hazardous substance, as such term is defined in paragraph (14) of section 101 of CERCLA (42 U.S.C. 9601(14)). This includes all radioactive substances released at Rocky Flats by DOE; and
2. Any pollutant or contaminant, as such term is defined in paragraph (33) of such section 101, (42 U.S.C. 9601 (33)); and
3. Any petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) of such section 101 (42 U.S.C. 9601 (14)); and
4. Any other substance, material, or waste the release of which the Parties jointly agree (or is determined through dispute resolution) requires a response action to protect human health and the environment.

E. Land Use Controls

The term "Land Use Controls" means any type of physical, legal, or administrative mechanism used to restrict the use of, or limit access to, real property to ensure that there are no unacceptable risks to human health, safety, or the environment. Land use controls consist of Engineering Controls and/or Institutional Controls. Land use controls may be either temporary or permanent. The establishment of the Refuge under the Act does not constitute a land use control for purposes of this MOU.

F. Institutional Controls

The term "Institutional Controls" means any non-engineering measure, such as legal or administrative mechanisms, whether temporary or permanent, designed to prevent or limit exposure to Covered Substances left in place at a site or to assure effectiveness of the chosen remedy.

G. Interior

The term "Interior" means the United States Department of the Interior, including the United States Fish and Wildlife Service (FWS).

H. Overlay Refuge

The term "Overlay Refuge" means those lands at Rocky Flats under the jurisdiction, custody, and control of DOE, but over which FWS exercises natural resource management activities by agreement with, and permission from, DOE. Subject to that permission and subject to DOE's continuing jurisdiction, custody, and control, FWS is authorized to manage fish and wildlife resources on an Overlay Refuge pursuant to the National Wildlife Refuge Administration Act, 16 U.S.C. 668dd *et seq.*

I. RCRA

The term "RCRA" means the Solid Waste Disposal Act (42 U.S.C. 6901 *et seq.*), popularly known as the Resource Conservation and Recovery Act.

J. Refuge

The term "Refuge" means the Rocky Flats National Wildlife Refuge established under section 3177 of the Act.

K. Response Action

The term "Response Action" means any of the following:

1. A response, as such term is defined in paragraph (25) of section 101 of CERCLA (42 U.S.C. 9601 (25));
2. A corrective action or closure under RCRA or CHWA; or
3. Any requirement for institutional controls imposed by any of the laws referred to in subparagraph (1) or (2).

L. Retained Property

The term "Retained Property" means the real property and facilities at Rocky Flats and identified in section 3175(d)(1) of the Act.

M. RFCA

The term "RFCA" means the Rocky Flats Cleanup Agreement, an intergovernmental agreement, dated July 19, 1996, among DOE, the U.S. Environmental Protection Agency (EPA), and the Department of Public Health and Environment of the State of Colorado (CDPHE).

N. Rocky Flats

1. Except as provided in subparagraph (2) of this paragraph, the term "Rocky Flats" means the Rocky Flats Environmental Technology Site, Colorado, a former defense nuclear facility, as depicted on the map entitled, "Rocky Flats Environmental Technology Site" dated October 22, 2001, and attached to this MOU as Attachment A and available for inspection in the office of the Regional Director, U.S. Fish and Wildlife Service, Division of Realty, 3rd Floor, 134 Union Boulevard, Lakewood, Colorado. The map is also available at the Rocky Flats Reading Room located at the Front Range Community College, 3705 W. 112th Avenue, Westminster, Colorado.

2. The term "Rocky Flats" does not include: (i) The land and facilities of DOE's National Renewable Energy Laboratory, including the acres retained by the DOE under section 3174(f) of the Act; and (ii) any land and facilities not within the boundaries depicted on the map referred to in subparagraph (1) of this paragraph.

O. Transferred Property

The term "Transferred Property" shall mean the real property transferred by the Secretary of the Department of Energy to the administrative jurisdiction, custody, and control of the Secretary of the Department of the Interior pursuant to section 3175 of the Act.

IV. Applicable Laws

All applicable Federal and State laws including, but not limited to the following, will be implemented in accordance with the Parties' responsibilities under the MOU:

1. CERCLA;
2. RCRA;
3. CHWA;
4. The Migratory Bird Treaty Act (16 U.S.C. 703 *et seq.*);
5. The National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd *et seq.*);
6. The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*);
7. The Economy Act (31 U.S.C. 1535 *et seq.*); and
8. The Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d).

V. Relevant Agreements

The following Agreements are relevant to and are not modified by this MOU:

1. RFCA;
2. "Memorandum of Agreement for Coordination of Endangered Species Act Compliance with Activities at Rocky Flats Environmental Technology Site" (March 23, 1999) among FWS, EPA, CDPHE, Colorado Department of Natural Resources, and DOE. (This Memorandum of Agreement established a process for the five parties to work together to achieve compliance with the mandates of the Rocky Flats Cleanup Agreement, other site closure activities, and the Endangered Species Act);
3. "Interagency Agreement, number DE–A134–99 RF 01776, between FWS and DOE, Rocky Flats Field Office for The Rock Creek Fish and Wildlife Cooperative Management Area at the Rocky Flats Environmental Technology Site" (May 17, 1999). (This interagency agreement identified technical services to be provided by FWS for the purpose of conserving, protecting, developing, and managing the habitat on the portion of the Rocky Flats Buffer Zone designated by Rocky Flats as the Rock Creek Reserve); and
4. "Interagency Agreement, number DE-AI34–02 RF 02046, between FWS and DOE, Rocky Flats Field Office for Wildlife Refuge Transition/Technical Assistance" (December 15, 2001) (IA). (This interagency agreement includes work by FWS necessary to effect the transfer of certain Rocky Flats lands to Interior for establishment of the Refuge, including mutually agreed technical services to facilitate that transfer).

VI. Covered Substances and Response

A. Responsibilities of DOE

1. As between the Parties and subject to section 3180(b) of the Act, with respect to the Transferred Property and to Retained Property, DOE shall have sole and exclusive Federal responsibility to fund and implement any Response Action (including operation and maintenance and Land Use Controls) required by applicable law or implementing regulations, including but not limited to CERCLA, RCRA, and CHWA, to address Covered Substances resulting from the activities of DOE (including entities acting with permission or under the authority of or in a contractual relationship with DOE) or which are present at the time of transfer by DOE to Interior (including contamination that is subsequently discovered), except to the extent that Interior or a third party caused or contributed to such contamination after the date of transfer.

2. In carrying out Response Actions at Rocky Flats, DOE will consult with FWS to ensure that Response Actions are carried out in a manner consistent with refuge purposes as specified in the Act. Selected Response Actions at Rocky Flats should reflect the intended future land use as a wildlife refuge for Response Action decisions where FWS recommendations are not implemented by DOE. DOE shall provide a written explanation for its decisions to FWS.

3. In administering the property to be retained by DOE under section 3175(d) of the Act, DOE shall consult with FWS to minimize any conflict between administration of the retained land by DOE for purposes relating to Response Actions and administration of the land transferred under section 3175(a) to FWS for refuge purposes. The Parties shall strive to meet the needs of managing the transferred lands for refuge purposes and managing the retained lands to meet Response Action objectives. In the case of any conflict between administering the retained lands for Response Actions and administering the transferred lands for refuge purposes which cannot be resolved through dispute resolution, administration of the retained lands for Response Actions shall take priority.

4. DOE will complete a risk assessment that will include a comprehensive ecological risk assessment for Rocky Flats.

5. DOE will evaluate the effects of remedial alternatives on natural resource restoration and incorporate into Response Actions restoration of natural resources injured by Covered Substances or Response Actions, including associated waste management structures, as appropriate.

6. In consultation with Interior, DOE will conduct periodic remedy reviews and take any necessary actions in accordance with CERCLA section 121 (c) and the RFCA for which DOE is responsible under this MOU and applicable law, to ensure that the selected remedy is still protective of human health and the environment. Such reviews may result in DOE conducting additional Response Actions, including removing or modifying Land Use Controls. DOE will conduct additional Response Actions as appropriate if the remedy fails or if new contamination is discovered that is not addressed by an existing remedy.

7. Pursuant to section 3175(a)(3) of the Act, DOE will request the Certificate of Completion from EPA.

B. Interior Responsibilities

1. Interior will manage the Refuge in accordance with applicable law, including but not limited to, the National Wildlife Refuge System Administration Act of 1966, as amended.

2. Interior will provide technical assistance to DOE to help coordinate Response Actions with the stated purposes of the Refuge, by reviewing and commenting on the impacts, if any, of proposed Response Actions on the future use of Rocky Flats as a unit of the National Wildlife Refuge System.

3. Interior will complete a Level III Contaminants Survey of Rocky Flats pursuant to Interior Departmental Manual Part 602, Chapter 2.

4. Interior will prepare the Comprehensive Conservation Plan for management of the Refuge pursuant to section 3178 of the Act.

5. Interior will be responsible for managing the Refuge for the purposes specified in the Act and in accordance with the National Wildlife Refuge System Administration Act. Interior shall not be responsible for any operations and maintenance related to Response Actions following the establishment of the Refuge.

6. Interior shall record any Land Use Controls, as documented in Land Use Control Records, on the FWS's Land Status Map for Rocky Flats, or other appropriate Interior land status map.

7. Following the transfer of administrative jurisdiction, FWS will provide DOE with access to the Refuge as may be reasonably required to carry out the provisions of this MOU and DOE's obligations under applicable requirements. Prior to entry, except in cases of emergency, DOE will provide FWS with reasonable notice, to allow coordination between Response Actions and Refuge management activities.

8. Interior will provide information to DOE for the preparation of the annual report on funding required by section 3182 of the Act and will submit the report to Congress jointly with DOE.

C. Discovery of Additional Covered Substances

1. If Interior discovers additional Covered Substances for which DOE is responsible on the Transferred Property, or otherwise identifies a previously unidentified condition associated with such Covered Substances that may require a Response Action, it will notify DOE of such Covered Substances or condition as soon as reasonably possible after such discovery.

2. After DOE receives notice from Interior, any regulatory agency or other third party, of the presence of Covered Substances for which DOE is responsible, DOE will provide a written status report to Interior as soon as practical, but in no event later than 30 days after Interior's notification of additional Covered Substances in accordance with section VI, paragraph C.1 of this MOU, for which DOE is responsible.

3. Under certain circumstances, Interior may discover Covered Substances that require an emergency response because they pose a risk to human health or the environment. Interior may take whatever action is necessary to isolate and prevent access to the contaminated site for purposes of protecting human health or the environment. Before taking further action, Interior will provide further notice to DOE, which, in consultation with Interior, will determine whether further Response Actions are required and how such Response Actions will be accomplished.

4. If Interior incurs response costs associated with Covered Substances for which DOE is responsible under this MOU, DOE will reimburse Interior for reasonable and legally authorized costs incurred by Interior. Interior requests for reimbursement will be in writing and will include appropriate receipts or other documentation. DOE will review such requests and upon approval, DOE will reimburse Interior subject to availability of appropriated funds. DOE will use its best efforts to secure appropriations to fulfill its obligations under this MOU.

VII. Retained DOE Property

A. The Parties anticipate that some contaminated areas of the site over which the Act requires DOE to retain administrative jurisdiction for a Response Action may have natural resource values. FWS may decide it wants to manage all or portions of DOE Retained Property as an Overlay Refuge subject to DOE's agreement and the continued jurisdiction, custody, and control of the land by DOE. Any agreement to manage Retained Property as an Overlay Refuge will be memorialized in a subsequent agreement.

B. To the extent permitted by law, Retained Property should be managed for the purposes identified at section 3177(e)(2) of the Act.

C. In those instances where FWS is managing Retained Property as an Overlay Refuge, FWS will not take actions contrary to any land use restrictions pursuant to CERCLA and/or any other Federal or State environmental law. Prior to engaging in any action that may disturb the surface soils of or any structure or engineered facility located on such lands, FWS will seek and obtain DOE approval prior to implementing any ground disturbing activity.

D. DOE shall retain sole and exclusive authority and responsibility to fund and maintain all necessary physical security prior to completion of Response Actions.

E. DOE and FWS will periodically review FWS activities on Retained Property to ensure that they are consistent with Response Actions. At a minimum, this review will begin not later than one year following the establishment of the Overlay Refuge and will recur annually in the month of the anniversary of the Overlay Refuge.

VIII. Existing Private Property Rights

A. The Act requires that the final MOU address the impacts that any mineral rights may have on the management of the Refuge, and provide strategies for resolving or mitigating these impacts. A substantial portion of the mineral estate associated with lands at Rocky Flats is privately owned. The Parties recognize that the exercise of certain existing privately-owned mineral rights, particularly surface mining of gravel and other aggregate material, at Rocky Flats will have an adverse impact on the management of the Refuge. Interior does not believe it can manage the Refuge for meeting the purposes of section 3177(e)(2) if those mineral rights are exercised. Accordingly, Interior will not accept transfer of administrative jurisdiction for lands subject to the mining of gravel and other aggregate material at Rocky Flats from DOE until the DOI determines that the affected mineral rights are adequately protected from development. The Parties are continuing to discuss this issue, and recognize that the Final MOU will need to address strategies for resolving or mitigating the impacts of surface mining on the Refuge.

B. Water rights, water easements, and utility rights-of-way are not anticipated to interfere with managing the Refuge for its intended purposes.

IX. Identification of Lands To Be Transferred

A. As of the date of this MOU, Response Action decisions, land use planning decisions and title review of the mineral estate have not been completed. Such decisions and title review must be completed prior to Interior and DOE determining which lands will be administratively transferred to Interior. Accordingly, the Parties intend to modify this MOU in the future to identify the lands to be transferred as necessary in order to implement section 3175 of the Act.

B. DOE will retain administrative jurisdiction, authority, and control over real property and facilities at Rocky Flats used for or related to a Response Action and subject to Section VII of this MOU. For purposes of this paragraph, real property and facilities include caps, barrier walls, fences, and monitoring or treatment wells and other engineered structures as well as real property or other facilities that DOE must retain to implement Response Actions in accordance with appropriate requirements.

C. The Parties anticipate that the administrative jurisdiction over most of Rocky Flats may be transferred from DOE to Interior. It is also anticipated that most of the industrial area, as identified on Attachment B as Retained Property, may not be transferred to Interior.

D. As required by section 3175(d)(2) of the Act, following completion of the required Response Action decisions and land use planning decisions and subject to Section VIII of this MOU, DOE will consult with FWS, the Administrator of EPA, and the Governor of the State of Colorado, on the identification of all real property and facilities to be retained.

E. DOE shall prepare an exact acreage and legal description of the land that

will become the Refuge, based on a survey that is mutually satisfactory to the Parties. As part of the transfer, DOE will notify the General Services Administration (GSA) of the transfer and revise the DOE Real Property records accordingly and any other DOE records used for reporting to the GSA. When reporting to GSA, DOE will maintain the Rocky Flats facility identification name and numbers as long as needed, and Interior will apply for its own facility identification name and number for the Refuge when administrative jurisdiction is transferred to Interior.

F. DOE will collect all applicable real estate records, maps, and electronic data associated with the acquisition, land management, and any disposals of the Refuge real estate and related property. DOE will transfer this information to Interior.

G. Until the transfer of administrative jurisdiction is completed, DOE will continue to operate and maintain all U.S. Government property and facilities at Rocky Flats, unless otherwise agreed to in writing by the Parties.

X. Buildings and Other Improvements

Under section 3175(c) of the Act, Interior may request the transfer of buildings and other improvements for the purposes of managing the Refuge. Interior agrees that DOE's need to retain, demolish, or otherwise dispose of certain facilities will take priority over requests for transfer to Interior.

XI. DOE Funded Activities

A. DOE will provide funding to Interior for activities necessary for the transition of Rocky Flats to its future use as a Refuge. Those activities include, but are not limited to, the following:

1. Implementation of this MOU.
2. Preparation of the Comprehensive Conservation Plan for the Refuge.
3. Interior Level III Contaminants Survey and other environmental monitoring required for the transfer, and ecological investigations necessary for the transfer.
4. Interior review and comment on cleanup plans and documents and consultation on remedy selection.
5. Real estate related work necessary to effect the transfer of jurisdiction pursuant to applicable Federal law and regulations.
6. This MOU shall not be used to obligate or commit funds or as the basis for the transfer of funds. The details of the levels of support to be furnished to one organization by the other with respect to funding will be developed in specific interagency agreements or other agreements. While reimbursement will be subject to the availability of funds, DOE agrees that funding under this MOU will receive priority consideration over other expenditures because of the importance of this MOU enabling DOE to complete its accelerated cleanup and closure of Rocky Flats and agrees to seek funds from Congress to satisfy its responsibilities under this MOU in the event that funds are insufficient.

B. Procedures for DOE funding of Interior activities pursuant to this MOU follow:

1. With respect to Interior activities that DOE funds in accordance with this MOU, under the Act, Interior will annually provide an estimate of its funding needs to DOE for the following fiscal year by October 31 of each year that this MOU remains in effect.
2. No funds are authorized to be transferred between the Parties by this MOU. Subject to requirements of the Anti-Deficiency Act, the Economy Act, and other applicable requirements, transfer of funds from DOE to Interior will be made on an annual basis as agreed upon in an annual or multi-year Interagency Agreement or Cooperative Agreement between DOE and Interior. Interior will maintain financial records to support periodic DOE audits of expenses in such detail and as often as deemed necessary by the DOE.
3. In accordance with section 3175(f) of the Act, the Parties acknowledge that funds will not be taken from Rocky Flats closure project funds either to implement the Act or to effect the transition of the site to National Wildlife Refuge status.
4. The Parties will comply with the requirements of section 3182 of the Act regarding an annual joint report to Congress on costs incurred to implement the Act in the prior fiscal year, as well as funds required for implementation in the current and subsequent fiscal years. The Parties agree to report costs incurred and future funding needs to the Congressional Committees responsible for DOE appropriations. DOE will draft, for joint DOE and Interior submission, annual reports to Congress on the cost of implementation of the Act pursuant to section 3182 of the Act.

C. The Parties agree to use their best efforts to work cooperatively to minimize the overall cost of the transition and transfer of administrative jurisdiction hereunder. Examples of these efforts could include use of existing environmental and ecological data, data that DOE already plans to collect to support the cleanup and closure of Rocky Flats, coordinated closure project planning, and the potential to share staff.

XII. Tort Claims

DOE shall process and adjudicate all administrative claims and defend all litigation asserted under the Federal Tort Claims Act that arise from any activity of DOE with respect to Rocky Flats or any Covered Substance for which DOE is responsible under this MOU. Interior shall process and adjudicate all administrative claims and defend all litigation asserted under the Federal Tort Claims Act that are not the responsibility of DOE. Each Party shall cooperate and assist the other in providing information relating to any such claims.

XIII. Enforcement Actions

As between the Parties, to the extent authorized by law and consistent with this MOU, DOE is responsible for responding to any administrative or legal actions brought to enforce the requirements of applicable laws or regulations concerning Covered Substances for which DOE has retained responsibility.

XIV. Delegation of Authority

A. Each Party will appoint a Manager who will be responsible for overseeing the work performed under this MOU. Managers will have the responsibility to implement this MOU. Either Manager should be available to meet on site at least monthly as requested by the other Manager.

B. The Manager for Interior will be the Refuge Project Leader appointed to oversee the Refuge and will serve as DOE's single point of contact for all activities at Rocky Flats and consultation requirements under section 7 of the Endangered Species Act.

C. The Manager for DOE will be designated in writing by the Assistant Secretary for Environmental Management within 30 days following execution of this MOU.

D. Any actions of the Managers that involve funding to implement this MOU will require DOE Headquarters review.

XV. Dispute Resolution

A. Interior and DOE Managers shall make a good faith effort to resolve all disputes concerning the implementation of this MOU, including planning, management activities, and the transfer of property and facilities from DOE to FWS. If any such dispute cannot be resolved informally at the Manager level, Dispute Resolution may be initiated pursuant to this section.

B. To initiate Dispute Resolution, the disputing Manager shall give to the other Manager a written notice of the dispute and the disputing Party's intent to initiate dispute resolution. The notice

shall include a detailed explanation of the dispute. Upon the other Manager's receipt of such notice, that Manager shall have 15 working days to provide to the disputing Party a written answer to the notice and explanation. The notice and answer, including any exhibits thereto, shall be the Record of Dispute. After such 15-day period has expired, the Managers shall make their best efforts to resolve the dispute within 20 working days.

C. If the Managers do not resolve the dispute within 20 days, the dispute will be elevated to FWS's Regional Director and DOE's Rocky Flats Manager or successor. Within 30 working days of receiving the Record of Dispute, they shall confer and attempt to resolve the dispute.

D. If the Parties do not resolve the dispute within 45 working days, the disputing Party may elevate the dispute to DOE's Assistant Secretary for Environmental Management and the Director of FWS. Within 30 working days of such elevation, the Deputy Assistant Secretary for Environmental Cleanup and Acceleration and the Director shall confer and resolve the dispute.

XVI. No Third Party Rights

This MOU is intended only to establish the terms and conditions for the transfer of the property described herein, and is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable by any person against the United States, its agencies, or any other person.

XVII. Cost Recovery, Contribution or Other Actions

Nothing in this MOU is intended to prevent the United States from bringing a cost recovery, contribution, or other action that would otherwise be available under Federal or State law.

XVIII. MOU Modification

This MOU shall remain in effect for both Parties, subject to modification by mutual agreement, made in writing and signed by both Parties.

Department of Energy.

Paul M. Golan,
Principal Deputy Assistant Secretary for Environmental Management.
Date: _____

Department of the Interior.

Craig Manson,
Assistant Secretary for Fish and Wildlife and Parks.
Date: _____

[FR Doc. 05–5597 Filed 3–21–05; 8:45 am]
BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Grande Ronde—Imnaha Spring Chinook Hatchery Project Final Design and Property Acquisition

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD to fund the final design and property acquisition portions of the Proposed Action for the Grande Ronde—Imnaha Spring Chinook Hatchery Project in Northeast Oregon, as well as additional valuation studies recommended by the Northwest Power and Conservation Council. This decision is based on the Final Grande Ronde—Imnaha Chinook Hatchery Project Environmental Impact Statement (DOE/EIS–0340, July 2004). Decisions to fund the construction of the project itself, post-construction operations, facilities maintenance, and/or monitoring and evaluation of the project will follow after the design and additional cost evaluation. The purpose of the project is to aid the conservation and recovery of the Snake River spring/summer Chinook salmon native to the Grand Ronde and Imnaha subbasins of Northeast Oregon (Blue Mountain Province), which are listed as threatened and are protected by the Endangered Species Act. Adequate, contemporary hatchery facilities are needed to mitigate for and recover these fish stocks.

ADDRESSES: Copies of the ROD and EIS may be obtained by calling BPA's toll-free document request line, 1–800–622–4520. The ROD and EIS Summary are also available on our Web site, *www.efw.bpa.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Mickey Carter, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon 97208–3621; toll-free telephone number 1–800–282–3713; fax number 503–230–5699; or e-mail *macarter@bpa.gov.*

Issued in Portland, Oregon, on March 11, 2005.

Stephen J. Wright,
Administrator and Chief Executive Officer.

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–383–064]

Dominion Transmission, Inc.; Notice of Service Agreements

March 15, 2005.

Take notice that on March 9, 2005, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Twelfth Revised Sheet No. 1300 and Sixth Revised Sheet No. 1402, to become effective April 1, 2005.

DTI states that the purpose of this filing is to disclose three nonconforming service agreements that materially deviate from DTI's form of service agreements. DTI states that the service agreements are with Virginia Natural Gas Company, Philadelphia Gas Works, and Rochester Gas & Electric Corporation.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.