

# **MEMORANDUM OF UNDERSTANDING**

**among the**  
**Bannock Planning Organization,**  
**Environmental Protection Agency,**  
**Shoshone-Bannock Tribes,**  
**and the**  
**State of Idaho Department of Environmental Quality.**

This MOU is effective the date of the last signature herein.

## **PARTIES:**

This Memorandum of Understanding (MOU) is entered into by and among the following entities (parties):

- Bannock Planning Organization (BPO),
- The United States Environmental Protection Agency (EPA),
- The Shoshone-Bannock Tribes (Tribes), and
- The State of Idaho Department of Environmental Quality (IDEQ).

## **PURPOSE:**

In order to protect public health and welfare of the citizens of Pocatello, Chubbuck, Fort Hall, and surrounding area; the Environmental Protection Agency, Shoshone-Bannock Tribes, Bannock Planning Organization, and the cooperative effort in addressing the PM<sub>10</sub> Non-Attainment status of both the Fort Hall and Portneuf Valley Non-Attainment Areas (PVNAA).

The purpose of this MOU is to establish a cooperative effort among all parties to produce an approvable State Implementation Plan (SIP) for the Portneuf Valley PM<sub>10</sub> Non-Attainment Area, and to evaluate and amend, if necessary, the Federal Implementation Plan (FIP) for the Fort Hall Non-Attainment Area (FHNA). The MOU will define the expectations, roles, and responsibilities of all parties involved, so that a SIP can be finalized and approved that meets the requirements of sections 110, 172, and 189 of the Clean Air Act including an accurate emission

inventory, motor vehicle emission budget, air dispersion modeling, and demonstration of attainment. This will include, but not be limited to, sharing data in a timely manner, cooperation on source profiling, and a joint modeling effort, all of which will proceed toward the goal to alleviate the PM<sub>10</sub> problem including secondary aerosols. The parties involved shall utilize this information to address a full planning effort for the State Implementation Plan, as well as help bring the Portneuf Valley and Fort Hall Airsheds into Attainment.

#### BACKGROUND:

The State of Idaho, Department of Environmental Quality has developed and submitted two SIP's to EPA for the Portneuf Valley area. One plan was submitted in May 1993, a second plan was submitted in 1999. EPA would not approve the first plan for its asserted failure to address precursor requirements of the CAA. EPA would not approve the SIP submitted in 1999, for its asserted failure to contain an adequate demonstration of attainment and address precursor requirements of the CAA. Therefore, there is no federally approved SIP for the area.

The PVNAA is located adjacent to the Fort Hall Non-Attainment Area. Within these airsheds there are 4 major PM<sub>10</sub> contributors: Road dust, Residential Wood Combustion (RWC), the JR Simplot Don Plant Facility, and the Astaris Facility (formerly FMC). The first three are addressed by the state (IDEQ), while Astaris is regulated jointly by the Tribes and EPA. At present Reasonable Available Control Technology (RACT) for all sources has either been in place or is in the final stages of implementation. However, continued PM<sub>10</sub> exceedances have been measured on both State and Reservation monitors of which secondary aerosols (ammonium sulfate and phosphate compounds) are significant contributors.

EPA issued a FIP for the Astaris facility, located within the Fort Hall PM<sub>10</sub> Non-Attainment Area, which focused on control of primary PM<sub>10</sub> emissions. The FIP required the installation of RACT-level control equipment, scheduled to be installed by April 2001. In order to treat hazardous waste, the Astaris facility is scheduled to install a Land Disposal Restriction (LDR) treatment facility by May 2002. Both the FIP-required changes and the LDR treatment plant will change the emission inventory at Astaris, and future work may be necessary on all emissions especially NO<sub>x</sub> and precursor emissions.

In June of 2000, EPA notified IDEQ that a full planning effort was required to address the airshed issues. EPA specifically indicated that the SIP should include the following: emission inventory; modeling; Condensable Particulate Matter (CPM); PM<sub>10</sub> precursors; and adequacy of source test data. The State demonstration of separate airsheds was directed at the emission of primary particulate and did not consider the long-range transport of aerosol precursors and secondary aerosol formation. Therefore, emissions of precursors from both airsheds are pertinent and need to be handled as a group effort.

## UNDERSTANDING:

In order to fulfill the purpose of this understanding and the full planning effort to address the airshed issues, the parties agree to the following actions.

- Developing Source Profiles,
- Air Dispersion and Chemical Mass Balance (CMB) Modeling as appropriate,
- Base year, attainment year and maintenance year Emission Inventories,
- Sharing of data,
- Consistency in source testing, and
- Address CPM for sources in which condensible particulate is anticipated.

## **RESPONSIBILITIES:**

IDEQ shall

1. Oversee the industrial source profiles for J. R. Simplot Don Plant Facility to be completed by August 2001.
2. Jointly perform the Air Dispersion and CMB Modeling (as appropriate) for the Portneuf Valley Non-attainment Area with EPA by August 2002.
3. Share ambient air quality, source test data, and laboratory analyses within 90 days of the end of each quarter.
4. Determine which sources of Condensible Particulate Matter need to be addressed for the SIP by March 2001.
5. Establish consistency in source testing for the industrial facilities within the Airsheds by March 2001.
6. Complete the base year, attainment year, and maintenance year Emission Inventories for the Portneuf Valley by December 2001.
7. Determine format and schedule by which BPO should submit the Vehicle Miles Traveled (VMT) data for PVNAA (by road, segment, or grid) by March 2001.
8. Decide who will run the emission model for the Portneuf Valley Non-Attainment area by February 2001, the model will be MOBILE6 and/or Part 5 performed in conjunction with BPO.
9. Cooperate in identifying and seeking adequate funding for the objectives at hand to improve the implementation of this agreement by December 2000.
10. Engage in joint and coordinated public education efforts to inform the public about current air quality planning efforts.

11. Set up meetings at least monthly to facilitate on-going communication, to review progress made and discuss issues arising under this MOU, to ensure that the parties are faithfully and effectively implementing this MOU.
12. The Portneuf Valley Airshed Advisory Group (PVAAG) will assist SIP development.
13. Shall designate a staff representative who will meet, communicate, and coordinate the implementation of this agreement.

EPA shall

1. Participate in at least six meetings with the parties of this MOU. Other meetings discussing issues and progress may be scheduled with the PVAAG.
2. Work together with the Tribes, to complete source profiles at the Astaris Facility by August 2001.
3. Complete a joint modeling effort to correctly model both Airsheds by August 2002.
4. Share ambient air quality and source test data and laboratory analyses within 90 days of the end of each quarter.
5. Determine which sources of condensable particulate matter need to be addressed on the Fort Hall Indian Reservation by March 2001.
6. Establish consistency in source testing for industrial facilities within the Airsheds by March 2001.
7. Work with the Tribes to complete base year, attainment year, and maintenance year Emission Inventories for the Fort Hall Non-Attainment Area by December 2001.
8. Cooperate in identifying and seeking adequate funding for the objectives at hand to improve the implementation of this agreement by March 2001.
9. Engage in joint and coordinated public education efforts to inform the public about current air quality planning efforts.
10. Meet monthly with the other parties to facilitate on-going communication, to review progress made and discuss issues arising under this MOU, to ensure that the parties are faithfully and effectively implementing this MOU.
11. Shall designate a staff representative who will meet, communicate, and coordinate the implementation of this agreement.

Shoshone-Bannock Tribes shall

1. Work together with EPA, to complete source profiles at the Astaris Facility by August 2001.
2. Complete a joint modeling effort to correctly model both Airsheds by August 2002.

3. Share ambient air quality and source test data and laboratory analyses within 90 days of the end of each quarter.
4. Work with EPA to establish consistency in source testing for industrial facilities within the Airsheds by March 2001.
5. Cooperate in identifying and seeking adequate funding for the objectives at hand to improve the implementation of this agreement by March 2001.
6. Engage in joint and coordinated public education efforts to inform the public about current air quality planning efforts.
7. Meet monthly with the other parties to facilitate on-going communication, to review progress made and discuss issues arising under this MOU, to ensure that the parties are faithfully and effectively implementing this MOU.
8. Propose to EPA a grant package, which includes a monitoring schedule to sample every day, rather than a 1 in 6 of 1 in 3 schedule, by June 2001.
9. Propose to EPA a grant package which includes establishing another monitoring site, as recommended by ATSDR for a population exposure site North of Astaris on the North side of the Freeway (I 86) by June 2001.
10. Work with EPA to complete a base year, attainment year, and maintenance year Emission Inventories for the Fort Hall Non-Attainment Area by December 2001.
11. Work with EPA to determine which sources of condensable particulate matter need to be addressed at the Fort Hall Indian Reservation by March 2001.
12. Shall designate a staff representative who will meet, communicate, and coordinate the implementation of this agreement.

BPO for the PVNAA shall

1. Provide VMT data to IDEQ in either road, segment, or grid format for model input parameters by September 2001.
2. Provide total miles by classification and pavement type to IDEQ for model input parameters by September 2001.
3. Provide Travel estimates for the area and model information for transportation travel by September 2001.
4. Assist in the establishment of a motor vehicle emission budget for the attainment year as well as the maintenance year of 2015.
5. Cooperate in identifying and seeking adequate funding for the objectives at hand to improve the implementation of this agreement by March 2001.
6. Engage in joint and coordinated public education efforts to inform the public about current air quality planning efforts.
7. Meet monthly to facilitate on-going communication, to review progress made and discuss issues arising under this MOU, to

ensure that the parties are faithfully and effectively implementing this MOU.

8. Shall designate a staff representative who will meet, communicate, and coordinate the implementation of this agreement.

#### RESERVATION OF RIGHTS:

No statements made in the course of negotiations among the Parties or in this MOU may be construed to represent an admission, determination, settlement, or adjudication of any legal or factual dispute relating to any Party's rights, privileges or interests. By entering into this agreement the parties reserve and do not waive their claims to jurisdiction over all or parts of the airshed and sources of pollution affecting those airsheds.

This agreement shall not be construed as waiving any rights, powers, or remedies the parties have under any applicable Act of Congress, Executive Order, treaty, regulation, State Constitution, State law, court decision, equity, or other authority. Each Party expressly reserves the right to assert any and all defenses it may have to any claim that may be asserted by the other Parties or by any other person under federal, state, or tribal law.

Nothing in this agreement shall change the jurisdictional authorities of the United States or any of its agencies, the Tribes or any of its agencies, the State or any of its agencies, or any other entity. This agreement is solely for the purpose of facilitating intergovernmental cooperation between the parties. This agreement is not and shall not be used as a precedent for resolution of any dispute regarding the jurisdictional authority of the parties to the agreement. This agreement creates no rights in third parties or the right of judicial review.

#### DURATION & TERMINATION:

This agreement is to remain in effect until the submittal of an approvable SIP by IDEQ, the full approval of the SIP by EPA, and the determination is complete on the need to revise the Fort Hall FIP. This agreement may only be modified by mutual agreement of all parties in writing. Any one party may terminate their participation in this agreement with 30 days written notice to all other parties. The agreement will remain in effect for all remaining parties.

#### SIGNATORIES:

This MOU is effective the date of the last signature herein.

#### AGREED TO BY:

**Memorandum of Understanding**  
**concerning the**  
**State Implementation Plan for the Portneuf Valley**

/S/ \_\_\_\_\_ 1-30-01

Steve Allred  
Director  
Department of Environmental Quality

Date

**Memorandum of Understanding**  
**concerning the**  
**State Implementation Plan for the Portneuf Valley**

/S/ \_\_\_\_\_ 2-8-01

Charles E. Findley  
Acting Regional Administrator  
Region 10  
Environmental Protection Agency

Date

**Memorandum of Understanding**  
**concerning the**  
**State Implementation Plan for the Portneuf Valley**

/S/ \_\_\_\_\_ 6 Feb 2001

Steve England  
Chairman  
Bannock Planning Organization

Date

**Memorandum of Understanding**  
**concerning the**  
**State Implementation Plan for the Portneuf Valley**

/S/

5/1/2001

Lionel Q. Boyer  
Chairman Fort Hall Business Council  
Shoshone-Bannock Tribes

Date