Memorandum of Understanding Between

The Department of the Interior, Bureau of Land Management,

And

Daggett County

As Cooperating Agencies

for Development of the Programmatic Environmental Impact Statement

and Associated Resource Management Plan Amendments for

Utility-Scale Solar Energy Development on Public Lands

I. Introduction

This Memorandum of Understanding (MOU) establishes the cooperating agency relationship between the United States Department of the Interior, Bureau of Land Management ("BLM") and the Daggett County ("Cooperator") for the purpose of developing a draft and final Programmatic Environmental Impact Statement (Programmatic EIS) and any associated draft and proposed Resource Management Plan Amendments (RMPA) for utility-scale solar energy development on BLM-administered public lands.

The BLM is the lead federal agency for the development of the Programmatic EIS.

The BLM acknowledges that the Cooperator has jurisdiction by law and/or special expertise applicable to the Programmatic EIS, as defined at 40 CFR 1508.1(n) and 1508.1(ee). This MOU describes responsibilities and procedures agreed to by Daggett County as a Cooperating Agency and the BLM ("the Parties").

The Cooperating Agency relationship established through this MOU shall be governed by all applicable statutes, regulations, and policies, including the Council on Environmental Quality's National Environmental Policy Act (NEPA) regulations (in particular, 40 CFR 1501.8 and 40 CFR 1508.1(e)), the Department of the Interior's NEPA regulations (43 CFR Part 46), the BLM's planning regulations (in particular, 43 CFR 1601.0-5, 1610.3-1, and 1610.4), and the Department of the Interior's Manual regarding NEPA (516 DM 2.5).

II. Purpose

The purposes of this MOU are:

A. To designate the Cooperator as a Cooperating Agency in the development and preparation of the Programmatic EIS.
B. To provide a framework for communication, cooperation, documentation, and coordination between the BLM and the Cooperator that will ensure successful completion of the Programmatic EIS and RMPAs in a timely, efficient, and thorough manner.
C. To recognize that the BLM is the lead agency with responsibility for the completion of the Programmatic EIS, associated RMPAs, and the Record of Decision (ROD).
D. To recognize that the Cooperator possesses valuable skills, resources, knowledge, and expertise that will assist the BLM in completing the Programmatic EIS, any RMPAs, and

the ROD.

E. To describe the respective responsibilities, jurisdictional authority, and expertise of each of the Parties in the planning process.

III. Introduction and Background

The Programmatic EIS will update the BLM's 2012 Western Solar Plan that assessed the environmental, social and economic impacts associated with utility-scale solar energy development on public lands in six western states, amending 89 land use plans. The purpose of the Programmatic EIS process is to evaluate utility-scale solar energy development on BLM-administered public lands, to increase opportunities for responsible utility-scale solar energy development, to develop criteria to exclude high-value resource areas to support conservation and climate priorities, and to support amendments to relevant BLM land use plans in connection with updating and revising the BLM-wide solar energy development program.

The BLM may expand the utility-scale solar energy development program to include five additional western states. The Programmatic EIS will evaluate a number of alternatives to determine the best management approach, assess potential impacts from utility-scale solar developments, and facilitate their deployment.

The States currently covered by the Western Solar Plan are Arizona, California, Colorado, Nevada, New Mexico, and Utah. The BLM through the Programmatic EIS is considering expanding the scope of the Western Solar Plan to include Idaho, Montana, Oregon, Washington, and Wyoming.

IV. Authorities

A. The authorities of the BLM to enter into and engage in the activities described within this MOU include, but are not limited to:
   1. National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).
   2. Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).
   3. Regulations implementing the above authorities:
      a. Council on Environmental Quality regulations (40 CFR 1501 et seq.)
      b. Bureau of Land Management planning regulations (43 CFR 1601 et seq.)

B. The authorities of the Cooperator to enter into this MOU include, but are not limited to:
   1. National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

V. Roles and Responsibilities

A. BLM Responsibilities:

1. As lead agency, the BLM retains final responsibility for the content of the Programmatic EIS and any associated planning documents, which may include a Draft RMPA, and a Proposed RMPA. Any BLM decisions resulting from this planning process apply only to BLM-administered lands and federal mineral estate.

2. The BLM will determine the purpose of and need for the RMPA, select alternatives for analysis, identify effects of the proposed alternatives, select the preferred alternative, and determine appropriate mitigation measures. In meeting these responsibilities, the BLM will follow all applicable statutory and regulatory requirements.

3. To the fullest extent consistent with its responsibilities as lead agency, the BLM will consider the comments, recommendations, data, and/or analyses provided by the Cooperator in the Programmatic EIS planning process, giving particular consideration to those topics on which the Cooperator is acknowledged to possess special expertise.

4. To the fullest extent practicable, after consideration of the effect such releases may have on the BLM's ability to withhold this information from other parties, the BLM will provide the Cooperator with copies of documents underlying the Programmatic EIS relevant to the jurisdiction by law and/or special expertise of the Cooperator, including technical reports, data, analyses, comments received, working drafts related to environmental reviews, and Draft and Proposed RMPA.

5. The BLM will participate in the conflict resolution process set forth in Section C5 to attempt to resolve any disagreements with the Cooperator that arise during the planning process and that cannot first be resolved informally or during the meetings with the cooperating agencies.

6. The BLM, as appropriate and consistent with applicable laws and regulations, will provide the Cooperator with copies of documents relating to the planning process and relevant to the Cooperator's responsibilities, including technical reports, data, analyses, comments received, working drafts related to environmental reviews, and draft and proposed RMPAs.

7. The BLM retains the exclusive responsibility to communicate with the BLM's contractor(s). The Cooperator may communicate with the contractor only through the BLM's representative. The Cooperator acknowledges that the BLM retains the exclusive responsibility to authorize modifications to the contract with the contractor, and that the Cooperator is not authorized to provide technical or policy direction regarding the performance of this contract.

B. Cooperating Agency Responsibilities under NEPA (40 CFR 1500 et seq.):

1. The Daggett County is a Cooperating Agency in this planning process and is recognized to have jurisdiction by law and/or special expertise in the following areas:

2. The Cooperator will provide information, comments, and technical expertise to the BLM regarding those elements of the Programmatic EIS, and the data and analyses supporting them, in which it has jurisdiction by law and/or special expertise or for which the BLM requests its assistance. In particular, the Cooperator will provide information on the following topics:

3. The Cooperator may participate in any of the activities within the areas of their jurisdiction by law and/or special expertise. These activities include, but are not limited to: providing guidance on public involvement strategies, identifying data needs, suggesting management actions to resolve planning issues, providing input to the draft analyses, identifying effects of alternatives, suggesting mitigation measures, and providing written comments on working drafts of the Programmatic EIS and supporting documents. (See also Section C.4.)

4. The Cooperator will notify the BLM about any issues that arise concerning this planning process in a timely fashion.

5. The Cooperator will use and adhere to the conflict resolution process set forth in Section C5 to address any disagreements with the BLM that arise during the planning process and that cannot first be resolved informally or during meetings with the cooperating agencies.

6. Based on the anticipated schedule for the planning process, extensions of time to provide comments and/or review the Programmatic EIS and other planning related documents will likely not be granted.

C. Responsibilities of the Parties:

1. The Parties agree to participate in this planning process in good faith and make all reasonable efforts to resolve disagreements.

2. The Parties agree to comply with the planning schedule provided as Attachment A which includes planned dates for the Programmatic EIS milestones and timeframes for reviews and submissions by the Cooperator.

3. Each Cooperator agrees to fund its own expenses associated with the Programmatic EIS process.

4. The Parties agree to carefully consider whether proposed meetings or other activities would waive the Unfunded Mandates Reform Act exception to the Federal Advisory Committee Act (2 U.S.C. 1534(b) and 5 U.S.C. App.).

5. The Parties agree that they will first attempt to resolve any disagreements informally, or during cooperating agency meetings. Where the BLM and the Cooperator disagree on substantive elements of the Programmatic EIS, and these disagreements cannot be resolved informally or during a cooperating agency meeting, the Cooperator may request, in writing, a conflict resolution meeting with the BLM Assistant Director, Energy, Minerals and Realty Management, or, if the BLM Assistant Director, Energy, Minerals and Realty Management, is unavailable, the BLM's representative with his/her delegated authority related to the issue involved, to discuss the issue(s). The written request must describe the disagreement to be discussed, the steps taken to resolve the disagreement, and a proposed compromise. The Cooperator may request up to one conflict resolution meeting per quarter and a single meeting may address multiple issues. The conflict resolution meeting may take place in person, by teleconference, or by web meeting, and may include other Cooperating Agencies that have raised a similar issue, at the BLM's discretion. The BLM will memorialize the outcome of the conflict resolution meeting in writing and will provide a copy to the Cooperator as soon as practicable. In addition, the Cooperator may document any unresolved disagreements on substantive elements of the Programmatic EIS as set forth Section V. E.

V. Other Provisions

A. Authorities not altered. Nothing in this MOU alters, limits, or supersedes the authorities and responsibilities of any Party on any matter within their respective jurisdictions. Nothing in this MOU shall require any of the Parties to perform beyond its respective authority.

B. Financial obligations. Nothing in this MOU shall require any of the Parties to assume any obligation or expend any sum in excess of authorization and appropriations available.

C. Immunity and Defenses Retained. Each Party retains all immunities and defenses provided by law with respect to any action based on or occurring as a result of this MOU.

D. Conflict of interest. The Parties agree not to utilize any individual for purposes of plan development, environmental analysis, or Cooperator representation, including officials, employees, or third party contractors, having a financial interest in the outcome of the Programmatic EIS or associated planning process.

E. Documenting disagreement or inconsistency. Where the Parties disagree on significant elements of the Programmatic EIS (such as designation of the alternatives to be analyzed or analysis of effects), and these disagreements cannot be resolved, the Cooperator may document its views in the Draft RMPA and the Proposed RMPA. The same provision applies when there are inconsistencies between the BLM's proposed action(s) and the objectives of Federal, state, local, or tribal land use plans and policies.

F. Management of information. The Cooperator acknowledges that all data and information provided will become part of the BLM's official record and will be available for public review, subject to any limitations on public release contained in applicable law, including the Freedom of Information Act and the Privacy Act. The Parties agree that internal working draft documents for the development of the Programmatic EIS will not be made available for review by individuals or entities other than the Parties to this MOU. All draft documents are part of the official BLM record and may only be released by BLM to the extent allowed by law, including the Freedom of Information Act and the Privacy Act. The Parties agree that in order to allow full and frank discussion of preliminary analysis and recommendations, meetings to review such predecisional and deliberative documents will not be open to the public.

G. Responsibility for decision making. While the Parties agree to make reasonable efforts to resolve procedural and substantive disagreement, they acknowledge that the BLM retains final responsibility for the decisions identified in the Programmatic EIS.

H. Coordination with BLM contractors. Argonne National Laboratory serves as BLM's contractor for all aspects of public involvement, data collection, environmental analysis, and Programmatic EIS preparation. The BLM may also hire additional supporting environmental contractors Cooperator agrees that it will communicate with the contractor(s) only through the BLM representative.

I. Insignia. For any Party to use the insignia of any other Party on any published media (such as a web page, printed publication, or audiovisual production), permission must be granted in writing from that Party.

J. Each of the signatories warrants that he or she is authorized to enter this MOU on behalf of the Party on whose behalf the signatory has executed the MOU.

K. This MOU may be executed in counterpart originals and each copy will have the same force and effect as though signed by all Parties.

VI. Agency Representatives

Each Party will designate a representative and alternate representative, as described in **Attachment C**, to ensure coordination between the Cooperator and BLM during the planning process. Each Party may change its representative at will by providing written notice to the other Party.

VII. Administration of the MOU

A. Approval. This MOU becomes effective upon signature by the authorized officials of all the Parties.

B. Amendment. This MOU may be amended through written agreement of all signatories.

C. Termination. If not terminated earlier, this MOU will end when the BLM publishes a final Programmatic EIS. Any Party may end its participation in this MOU by providing written notice to the other Party.

IX. Signatures

The Parties hereto have executed this MOU on the dates shown below.

Daggett County

_____ Date_____

Bureau of Land Management

Headquarters

1849 C Street N.W.

Washington, DC 20240

_____ Date_____

Benjamin E. Gruber, Acting Assistant Director,
Energy, Minerals and Realty Management

Attachment A

Cooperating Agency Participation in the Programmatic EIS

	Programmatic EIS/RMPA Stage	**Potential Activities of Cooperating Agencies (CAs) within their acknowledged areas of expertise**
1	Develop planning criteria	Provide advice on proposed planning criteria.
2	Collect inventory data	Identify data needs; provide data and technical analyses within the CA's expertise.
3	Formulate alternatives	Collaborate in developing alternatives. Suggest land allocations or management actions to resolve issues. **[Decision to select alternatives for analysis is reserved to the BLM.]**
4	Estimate effects of alternatives	Provide effects analysis within the CA's expertise; identify direct, indirect, and cumulative effects within the CA's expertise; suggest mitigation measures for adverse effects.
5	Select the preferred alternative; issue Draft Programmatic EIS/RMPA	Collaborate in evaluating alternatives and in developing criteria for selecting the preferred alternative; provide input on Preliminary Draft Programmatic EIS/RMPA. The CA may also provide written, public comments on draft if desired. **[Decision to select a preferred alternative and to issue a draft is reserved to the BLM.]**
6	Respond to comments	As appropriate, review comments within the CA's expertise and provide assistance in preparing BLM's responses.
7a	Issue Proposed Final Programmatic EIS/RMPA	**[Action reserved to BLM.]**
7b	Initiate Governor's Consistency Review	Once initiated by the BLM, state CAs should contribute to the Governor's Consistency Review (for RMPA only).
8	Resolve protests; modify Proposed Programmatic EIS/RMPA if needed; sign ROD	**[Action reserved to the BLM.]** A CA that has provided information relevant to a protest may be asked for clarification.

Attachment B

Schedule

Programmatic EIS/RMPA Stage	Date	Expected Timing for CA Responses (where applicable)
Cooperating Agencies Kick-off Meeting (virtual)	Planned April 19, 2023	
		Provide advice on proposed planning criteria (2 weeks after kick-off meeting)
		Provide data and technical analyses within the CA's expertise (3 weeks after kick-off meeting)
BLM presents conceptual alternatives to CAs for discussion	Est. April 19, 2023	Provide advisory input on conceptual alternatives (est. 2 weeks review time)
BLM provides preliminary draft of Chapter 3 (affected environment)	Est. May 22, 2023	Review and comment on affected environment chapter (est. 2 weeks review time)
BLM provides preliminary draft of Chapter 4 (impacts and mitigation)	Est. May 22, 2023	Provide impacts/effects analysis and suggest mitigation measures of alternatives (for identified areas of cooperator expertise) (est. 2 weeks review time)
BLM provides preliminary Draft Programmatic EIS	Est. July 24, 2023	Provide feedback on Draft Programmatic EIS (est. 3 weeks review time)
Issue Draft Programmatic EIS/RMPA (public comment period 90 days)	Est. October 16, 2023 – January 8, 2024	

Prepare response to public comments	Est. January 2024	
BLM provides preliminary draft Final Programmatic EIS/RMPA	Est. March 24, 2024	Provide feedback on preliminary draft Final Programmatic EIS (3 weeks)
Issue Proposed Final Programmatic EIS/Proposed RMPA	Est. June 28, 2024	
Initiate Governor's Consistency Review	Est. June 28, 2024	
Resolve land use plan protests; modify Final Programmatic EIS/Proposed RMPA if needed; sign ROD	Est. September 20, 2024	

Attachment C

Agency Representatives

Bureau of Land Management

Name of Plan: Utility-Scale Solar Energy Programmatic EIS

Primary Representative: Jayme Lopez
Interagency Liaison, National Renewable Energy Coordination Office
J06lopez@blm.gov

Backup Representative: Leslie Hill
Senior Advisor, Office of the Director
lmhill@blm.gov

Daggett County

Primary Representative:

Backup Representative: