



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Montana State Office
5001 Southgate Drive
Billings, Montana 59101-4669
<http://www.blm.gov/mt>

In Reply Refer To:

3100 (922.JB)
January 27, 2009 Competitive Oil & Gas Lease Sale

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

January 14, 2009

Mr. Philip Land
The Land Brokers Real Estate
P. O. Box 1025
Big Timber, Montana 59011-1025

Dear Mr. Land:

We are writing this letter in response to the letter you wrote on behalf of Mr. David Smith and Ms. Linda Smith (Enclosure 1). In your letter you indicated that the Smiths were opposed to the Bureau of Land Management (BLM) leasing the Federal oil and gas mineral estate under their surface in a portion of lease parcel MT 01-09-08. We have reviewed your letter of January 5, 2008, and wish to offer the following explanation for our decision detailed in this letter.

Your concerns referenced lands within Section 20, T. 2 N., R. 14 E. You note that David and Linda Smith own 560 acres of fee surface in the section. However, only the SW1/4SE1/4 and the SE1/4NW1/4 of Section 20 (80 acres) are split estate and being considered for lease. In your letter for the Smiths, you indicate that the subject lands are range for several species of wildlife, including fragile riparian areas, and that the acreage "is the Smith's full-time home, which includes their residence, barn, shop and guest house." Our analysis of 2008 aerial photography does not indicate that there are any buildings on the 80 acres being offered for lease, or on the remaining lands owned by the Smiths in Section 20. We agree that the subject lands are big game winter range. Hence, we did apply a winter range stipulation to Section 20 that prohibits surface use within crucial winter range for wildlife from December 1 to March 31.

There appears to be one short coulee on the 80 acre parcel that flows in a northeast direction for about 1/4 mile before it ties into a riparian area that is not included in the lease. We did not identify areas on the 80 acres proposed for lease requiring a riparian area stipulation. However, this coulee would be protected by the BLM based on our regulatory authority to move wellsite locations. This would be done during review of any proposed wellsite, should the parcel be leased and developed. The Smiths would be invited to participate in this review.

Based on the information garnered from our analysis and in consideration of the points raised in the letter from the Smiths, there does not appear to be sufficient justification to exclude the 80 acres from the parcel to be offered. We will inform the Smiths of the results of the lease sale.

If the Smiths wish, they may appeal this decision. This Decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4 (Enclosure 2) and the enclosed Form 1842-1 (Enclosure 3). If an appeal is taken, the Notice of Appeal must be filed in the Montana State Office at the above address within 30 days from receipt of this Decision. The appellant has the burden of showing that the decision appealed from is in error. If you wish to file a petition for a stay pursuant to 43 CFR Part 4, Subpart B § 4.21, during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay must show sufficient justification based on the standards listed below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

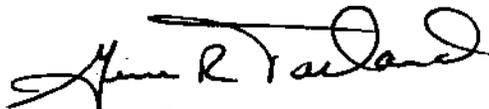
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall be evaluated based on the following standards:

1. The relative harm to the parties if the stay is granted or denied;
2. The likelihood of the appellant's success on the merits;
3. The likelihood of immediate and irreparable harm if the stay is not granted; and
4. Whether the public interest favors granting the stay.

Copies of the Notice of Appeal, Petition for Stay, and any statement of reasons, written arguments or briefs must also be submitted to the Office of the Solicitor at the address shown on Form 1842-1 at the same time the original documents are filed in this office.

If you have any questions, please feel free to call John Bown at (406) 896-5109.



Gene R. Terland
State Director

3 Enclosures

- 1-Letter of January 5, 2009 (2 pp)
- 2-Form 1842-1 (2 pp)
- 3-43 CFR 4.21(a) (2 pp)

cc:

Billings Field Office