

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-070-05-1310-EJ]

Notice of Intent to Prepare an Environmental Assessment and Possible Plan Amendment
Concerning Oil and Gas Leasing in the Buffalo Field Office, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent to prepare an Environmental Assessment (EA) to evaluate the continued implementation of the oil and gas leasing decisions in the 1985 Buffalo Resource Management Plan (RMP), as amended in 2003. This may lead to further amendment of the RMP for the Bureau of Land Management (BLM) Buffalo Field Office in Campbell, Sheridan, and Johnson Counties, Wyoming.

SUMMARY: This Notice is intended to satisfy the requirements at 43 CFR 1610.2(c) for amending an RMP (if deemed necessary) pursuant to the Federal Land Policy and Management Act (FLPMA), and initiates scoping under the National Environmental Policy Act (NEPA).

The purpose of this EA is to examine land use allocations for oil and gas leasing and lease stipulations in light of new information, including new development scenarios since 1985, in the Buffalo Field Office (BFO). This action has been prompted by recent rulings of the Interior Board of Land Appeals (IBLA) and the Tenth Circuit Court of Appeals (the Court) which upheld the IBLA's April 26, 2002, determination that the 1985 Buffalo RMP/EIS and the Wyodak EIS were insufficient to support certain leasing decisions because the RMP did not discuss the impacts to air and water of coal bed

natural gas (CBNG) extraction and production. See *Pennaco Energy v. DOI*, 377 F.3d 1147 (10th Cir., August 10, 2004).

DATES: The public is invited to comment on this proposed action, the scope of the EA, alternatives to be considered, and planning criteria. The BLM can best use comments and resource information that are submitted within 30 days of publication of this notice in the Federal Register. BLM does not plan to hold scoping meetings at this time.

ADDRESSES: Please send written comments or questions to the BLM Buffalo Field Office, 1425 Fort Street, Buffalo, Wyoming 82834. Written comments must have the Environmental Assessment number 070-05-070 written on the front page of the comments. Written comments, or resource information, may also be hand-delivered to the BLM Buffalo Field Office. Comments or questions may also be sent electronically to *BFOPro_WYMail@blm.gov*. The scoping notice and other information regarding this project are posted on the Wyoming BLM website at <http://www.wy.blm.gov/nepa/bfo/>. Members of the public may examine documents pertinent to this proposal by visiting the BFO during business hours

(8:00 a.m. to 4:30 p.m.), Monday through Friday, except holidays.

Your response is important and will be considered in the environmental analysis process. If you do respond, we will keep you informed of the availability of environmental documents that address impacts that occur from this proposal. Please note that comments and information submitted regarding this project, including names, e-mail addresses, and street addresses of the respondents, will be available for public review and disclosure at the above address. Individual respondents may request confidentiality. If you wish to withhold your name, e-mail address, or street address from public view or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed

by the law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: Paul Beels, Project Manager,
Buffalo Field Office, Buffalo Field Office, 1425 Fort Street, Buffalo, Wyoming 82401.
Mr. Beels may also be reached by telephone at 307-684-1168.

SUPPLEMENTARY INFORMATION: This action has been prompted by recent rulings of the IBLA and the Court concerning the adequacy of the 1985 Buffalo RMP EIS to support leasing in areas with CBNG potential. The ruling also considered the adequacy of developmental NEPA documents, such as the Wyodak EIS, to support leasing decisions since they do not consider “not issuing the leases at all” as leasing alternatives. The Powder River Basin Oil and Gas EIS Resource Management Plan Amendment Record of Decision (ROD) was signed on April 30, 2003. That ROD amended the 1985 Buffalo RMP to expand the anticipated level of use of the resource area for oil and gas and to develop appropriate resource use restrictions to mitigate impacts to other resources. These restrictions were designed to be implemented at the development stage through site-specific Conditions of Approval (COA) on permits. The PRB EIS analyzed the effects on air, water and other resources of the potential for development of 51,000 CBNG wells. This EA will substantially incorporate by reference the impact analysis from the PRB EIS.

This document will also analyze any other new information pertaining to oil and gas leasing in the BFO area. This analysis will tier to the 1985 BFO RMP EIS and may amend the current BFO RMP. Should BLM at any time during the process determine

that it will be unable to make a finding of no significant impact, it will commence preparation of an environmental impact statement.

During the preparation of this EA, BLM does not intend to offer parcels in coal bearing areas (generally considered the Fort Union Formation) for oil and gas leasing, these being the areas currently productive for CBNG.

In response to the Court's decision, the BLM is initiating a separate EA to examine its leasing decisions between February 2000 and August 2004 in the coal bearing areas of the BFO area.

In the PRB EIS, BLM carefully reviewed the 1985 land use objectives for the BFO and determined that with the leasing stipulations in the 1985 Buffalo RMP and new mitigation measures approved in the PRB EIS, the 51,000 wells would not result in any social, environmental or economic effects that would preclude accomplishment of one or more of the Buffalo RMP objectives, as long as appropriate mitigation measures are required and applied in site-specific authorizations.

Given the extensive analyses of development stage impacts that have already been prepared to support the increase in the level of use for CBNG and establish the necessary protective measures to be applied at the project level, the purpose of this document will be to take a hard look at oil and gas land use allocations and lease stipulations. This EA will consider options open to the BLM prior to lease issuance and identify those practices that should be applied to leases as stipulations. The options include closing an area to leasing or applying lease stipulations beyond the standard lease stipulations applicable to every lease. Any new restrictions would be applied to the extent lawful and appropriate through the use of Conditions of Approval (COAs) on future development for new leases.

An interdisciplinary team approach will be used to develop the EA. At a minimum, the following key disciplines will be represented: air quality, hydrology and ground water, and fluid minerals specialist or petroleum engineer (or both).

Existing land use plan decisions that will be evaluated, and may be amended, include the following:

- Areas to be open, closed, or “open subject to protective stipulations or restrictions to future oil and gas leasing.”
- The necessary level of program constraints, management intensity, and management practices (such as lease stipulations) sufficient to mitigate the impacts of CBNG development and ensure that other resource programs will continue to meet the goals and objectives in the RMP.
- Other decisions as appropriate.

Potential Alternatives:

The BLM invites scoping comments on seven potential alternatives:

1. The No Action alternative: Maintain existing land use allocations and leasing decisions based on the 1985 RMP, as amended in 2003.
2. Open the entire Field Office area to leasing while applying standard lease terms and conditions; i.e., standard environmental and resource protections.
3. Maintain existing land use allocations for areas to be open or closed to consideration for leasing. Develop and consider a new mix of management constraints such as protective stipulations (see the examples below) to be attached as terms of use at lease issuance based on new information, current development scenarios (i.e., PRB Reasonably Foreseeable Development scenario) and new technologies. For example:

-Develop stipulations that can be attached to new leases for some management practices adopted in the 2003 EIS that are currently applied only on a site-specific basis as COAs on development, such as water management practices and best available control technology for air emissions.

-No surface occupancy stipulations on slopes greater than 10 percent and on highly erosive soils.

-No surface occupancy in six areas proposed as Areas of Critical Environmental Concern (ACEC) as described in Appendix R to the PRB EIS.

-New stipulations that provide additional protection for greater sage-grouse from development-related threats, including practices favorable to the spread of West Nile virus.

4. Modify areas currently designated as open to leasing with a special lease stipulation that precludes development of CBNG until the planned Buffalo RMP revision, scheduled to begin in FY 2008, is completed. Upon revision of the Buffalo RMP, lessees subject to this restriction may seek modification or waiver pursuant to the terms of the revised RMP following a 30-day public review period.

5. Maintain existing land use allocations and leasing decisions, but close to leasing areas within the six proposed ACECs.

6. Adopt a moratorium on lease sales until completion of the Buffalo RMP revision.

7. Close the BFO to oil and gas leasing.

Planning Criteria: Criteria proposed will include:

- Balancing the level of land use restrictions or other management practices needed at the leasing stage to protect resources, while keeping the public lands and resources available for public use under FLPMA principles of multiple use and sustained yield.
- The potential for the occurrence and development of mineral resources, including conventional oil and gas and coalbed natural gas production.
- Consistency with the land use plans, programs, and policies of other Federal agencies, State and local governments, and Native American tribes.
- Compliance with all Federal laws including the Clean Air Act, Clean Water Act, National Historic Preservation Act, and the Endangered Species Act.
- Balancing the requirements of FLPMA and the Mineral Leasing Act.
- Because this effort focuses on planning-level use restrictions such as stipulations that are applied at the lease issuance stage, the re-examination of site-specific development stage conditions of approval for CBNG development and production is beyond the scope of this EA. Those site-specific mitigation issues were examined in detail in the PRB EIS which resulted in the 2003 BFO plan amendment.

-Those ACECs proposed for designation in the PRB EIS will not be designated through this analysis. Only the measures necessary to protect their eligibility will be considered. Designation will be deferred until the planned Buffalo RMP revision. BLM projects that this revision will commence in FY 2008.

Alan L. Kesterke
Associate State Director

November 30, 2004