

Draft OO1

II. Definitions

Split Estate means lands where the surface is owned by an entity or person other than the owner of the Federal or Indian oil and gas.

II 2. Processing

(b) Within 10 days of receiving the APD package, BLM, in coordination with the operator and Surface Managing Entity (including, in the case of split estate, the private surface owners), if appropriate, will schedule a future date for the onsite inspection unless the onsite inspection was held as part of the Notice of Staking (see Section III.F. of this Order). The onsite inspection will be held as soon as practicable based on schedules and weather conditions.

III 2. Drilling Plan (i) (3) Plan of Operations.

The Surface Use Plan of Operations must:

- where the surface is privately owned, include a certification of surface owner agreement or an adequate bond, as described in Section VI. of this Order.

2. Surface Use Plan of Operations

With each copy of Form 3160-3, the operator must submit to BLM a Surface Use Plan of Operations. The Surface Use Plan of Operations must:

- where the surface is privately owned, include a certification of surface owner agreement or

VI. Operating on Lands with Private/State Surface and Federal or Indian Oil and Gas

When authorizing lease operations on split estate lands where the surface is not Federally-owned and the oil and gas is Federal or Indian, BLM must comply with NEPA, the National Historic Preservation Act, the Endangered Species Act, and related Federal statutes. For split estate lands within FS administrative boundaries, BLM has the lead responsibility, unless there is a local BLM/FS agreement that gives the FS this responsibility. For any split estate involving Indian lands, refer to Section VII.B. of this Order.

The operator must make a good faith effort to notify the private surface owner before entry and obtain an access agreement from the surface owner. The access agreement may include terms or conditions of use, be a waiver, or an agreement for compensation. The operator must certify to BLM that (1) it made a good faith effort to notify the surface owner before entry and (2) that an agreement with the surface owner

12/02/05 Draft Onshore Oil and Gas Order No. 1
Text Relating to Split Estate

has been reached or that a good faith effort to reach an agreement failed. If no agreement was reached, the operator must submit an adequate bond to BLM for the benefit of the surface owner sufficient to pay for loss or damages, such as loss of or damage to agriculture, other tangible improvements, or structures, as required by the specific statutory authority under which the surface was patented or the terms of the lease. The minimum acceptable bond amount is \$1,000.

Surface owners have the right to appeal the sufficiency of the bond. Before the approval of the APD, BLM will make a good faith effort to contact the surface owner to assure that they understand their rights of appeal.

The operator must describe the terms of the Surface Owner Agreement, if one was obtained, in sufficient detail in the Surface Use Plan of Operations to enable BLM to evaluate impacts to adjacent off-site Federal and Indian lands and resources and prepare the necessary NEPA documentation. BLM will make the final determination of appropriate surface use requirements. In doing so, BLM will carefully consider the views of the surface owner and the effect on the surface owner's use of the surface before implementing mitigation measures. The operator must submit the name, address, and phone number of the surface owner, if known. BLM will invite the surface owner to the onsite inspection to assure that their concerns are considered. Surface owner concerns will be considered to the extent that they are consistent with Federal land management policy.

The following chart explains the major changes between the existing Order and the proposed Order.

VII. Privately Owned Surface A. Federal oil and gas leases B. Indian oil and gas cases	VI. Operating on Lands with Private/State Surface and Federal or Indian Oil and Gas VII. Leases for Indian Oil and Gas	This section would change the provisions regarding compensation to surface owners to that which is required by the authority that granted the surface patent. It would incorporate the latest policy requiring a statement from the operator regarding whether or not there is surface owner agreement. If the operator cannot reach an agreement with the surface owner, the operator must provide a bond for the benefit of the surface owner. The bond must be sufficient to compensate the surface owner in an amount established by the original land patent or statute authorizing the patent.
--	---	--