



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Eastern States Office
20 M Street SE, Suite 950
Washington D.C. 20003

DECISION RECORD FOR Environmental Assessment DOI-BLM-ES-0030-2016-0002-EA

INTRODUCTION

The Bureau of Land Management (BLM) proposes to lease federal mineral estate for potential future oil and gas development within the proclamation boundary of the Wayne National Forest (WNF), Athens Ranger District, Marietta Unit (located in the counties of Monroe, Noble, and Washington in Ohio). The BLM prepared an Environmental Assessment (EA) to analyze the potential effects of leasing all federal mineral estate underlying National Forest System lands within the Marietta Unit, totaling approximately 40,000 acres. The BLM will offer approximately 719 acres (17 parcels) in Ohio as part of the December 2016 Competitive Oil and Gas Lease Sale. These parcels have been assigned EOI 1635, EOI 1638, EOI 1794, EOI 2174, and EOI 1823. Thirty-three parcels were initially proposed, but after further review the BLM withdrew 16 parcels from the December lease sale to resolve questions of ownership and existing rights for minerals acquired by the United States government during the formation of the WNF. Once these questions are resolved, the Ohio parcels may be offered at the next available competitive lease sale. The BLM issued errata notices on November 17, 2016; December 9, 2016; and December 12, 2016.

Interested parties, such as private individuals or companies, may file Expressions of Interest (EOIs) to nominate parcels for competitive bid and leasing by the BLM. The BLM has received at least 50 EOIs to nominate parcels on the Marietta Unit of the WNF thus far, between April 2012 and November 2016. A federal oil and gas lease is a legal contract that grants exclusive rights to the lessee to develop federally-owned oil and gas resources, but does not authorize surface-disturbing activities or obligate the lessee to drill a well on a parcel in the future. If the parcels are leased and the lessee identifies a detailed plan for oil and gas development on the parcels in the future, the BLM and U.S. Forest Service would conduct future site-specific environmental analysis and any required consultations, prior to authorizing any ground disturbing activities. The site-specific analysis and additional consultations would occur when the lessee submits an Application for Permit to Drill (APD).

The Proposed Action to offer these parcels for lease is part of an action previously analyzed in the 2006 Final Revised Land and Resource Management Plan, Wayne National Forest (2006 Forest Plan). Goal 10.1 in the 2006 Forest Plan states, "Provide a supply of mineral commodities for current and future generations, while protecting the long-term health and biological diversity of ecosystems. Facilitate the orderly exploration, development, and production of mineral and energy resources on land open to these activities" (2006 Forest Plan, p. 2-41). The BLM was a cooperating agency in development of the 2006 Forest Plan and its related Final Environmental

Impact Statement (EIS). The Forest Service signed its Record of Decision on December 14, 2005.

The Proposed Action was also assessed as part of a related review effort resulting in a Supplemental Information Report (SIR) on oil and gas that was prepared by the U.S. Forest Service in coordination with the BLM. The EA prepared for this Proposed Action incorporates by reference the relevant information from the 2006 Forest Plan, Final Environmental Impact Statement and the 2012 SIR, in accordance with 40 CFR 1502.21.

DECISION

As a result of the analysis presented in the EA (DOI-BLM-ES-0030-2016-0002-EA), it is my decision to authorize the Proposed Action as described above and in the EA. A Finding of No Significant Impact (FONSI) supports this decision and has been prepared separately. The Proposed Action coupled with lease stipulations, best management practices, and lease notices detailed in the EA have led to my decision that all practicable means to avoid or minimize environmental harm have been adopted and that unnecessary or undue degradation of public lands and resources would not result from implementation of the Proposed Action. A no action alternative was considered, in which leases would not be issued; however, this alternative was not selected because it does not meet the purpose of and need for the Proposed Action.

The BLM will issue competitive leases for parcels sold at the sale, and non-competitive leases may be issued for applications filed for two years after the sale for the unsold parcels.

AUTHORITIES

The authority for this decision is contained in the Mineral Leasing Act of 1920, as amended; the Mineral Leasing Act for Acquired Lands of 1947, as amended; the Federal Land Policy and Management Act (FLPMA) of 1976; and the Energy Policy Act of 2005.

TERMS/CONDITIONS/STIPULATIONS

Standard terms and conditions, as well as the lease notices and stipulations, identified within the EA, would apply and be attached to the lease parcels.

Additionally, any purchaser of a Federal oil and gas lease is required to comply with all applicable Federal, State, and local laws and regulations including obtaining all necessary permits required prior to the commencement of project activities, including but not limited to the following:

- National Environmental Policy Act (1969) and the associated Council on Environmental Quality regulations at 43 CFR Parts 1500-1508
- FLPMA (1976) as amended and the associated regulations at 43 CFR Part 1600
- Mineral Leasing Act (1920) as amended and the associated regulations at 43 CFR Part 3100
- Clean Water Act (1977)
- Clean Air Act (1970) as amended
- National Historic Preservation Act (NHPA) (1966) as amended and the associated regulations at 36 CFR Part 800
- Endangered Species Act (ESA) (1973) as amended

- Migratory Bird Treaty Act (1918)
- Resource Conservation and Recovery Act (RCRA) (1976) as amended
- Executive Order 11988- Floodplain Management
- Executive Order 119900 – Protection of Wetlands
- Executive Order 12898 – Environmental Justice in Minority Populations and Low-Income Populations
- Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews (BLM WO IM 2010-117)
- State and Local Laws and regulations

PLAN CONFORMANCE AND CONSISTENCY

The Proposed Action is in conformance with the 2006 WNF Land and Resource Management Plan and associated Final Environmental Impact Statement (LRMP/FEIS) and Record of Decision (ROD), as amended. The BLM was a cooperating agency in the preparation of these documents. This EA is also consistent with a related review effort resulting in a 2012 Supplemental Information Report (SIR) on oil and gas that was prepared by the U.S. Forest Service in coordination with the BLM. As part of these planning efforts, the U.S. Forest Service conducted extensive public outreach in the development of the 2006 LRMP/FEIS.

PUBLIC INVOLVEMENT

Scoping and Public Comment on the Draft EA

The BLM conducted external scoping for the Draft EA through a series of public meetings, requesting public comments, and through close coordination and data sharing with the U.S. Forest Service. Public notices appeared in local newspapers including the *Marietta Times*, *Athens Messenger*, and the *Ironton Tribune* for two consecutive weeks starting on November 1, 2015. The BLM also issued a press release to various news outlets on November 2, 2015, notifying the public of dates, times, and locations of the public meetings. Public meetings were held on November 17, 2015 in Marietta, Ohio; November 18, 2015 in Athens, Ohio; and November 19, 2015 in Ironton, Ohio.

During the early stages of the project, the BLM created a project website for the EA in November 2015 accessible through the BLM national NEPA register at https://eplanning.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do. The website provides links to documents, opportunities for public involvement, including methods for comment submission, maps, EOI information, and links to additional project information.

The BLM received approximately 3,400 comments during the scoping period and used the input received to develop the Draft EA. Many of the comments received during scoping reflected common themes revolving around concern about oil and gas activities on forest and wildlife habitat, toxic chemicals, degradation of water quality, air pollution, public health and safety and degradation of recreational opportunities and the visual environment within the WNF. Some comments also expressed interest in delaying leasing until the oil and gas market improves. Individuals in favor of leasing felt that restricting oil and gas development prohibits economic growth for the state of Ohio, including for those individuals that wish to develop private minerals.

In conformance with BLM policy, the Draft EA and unsigned FONSI were posted for a 30-day public comment period from April 28-May 31, 2016. The BLM received approximately 14,000 comments by email and 480 comments by U.S. postal service or FedEx. Of the comments received, BLM identified approximately 300 substantive comments and addressed them in the Final EA. Substantive comments focused on concerns about air quality and climate change, hydraulic fracturing, water quality, cumulative impacts, the NEPA process, public health, traffic, noise, environmental justice, seismic risk, private development, recreation, threatened and endangered species, private home/land values, and waste disposal. Changes made to the Draft EA are summarized in a comment matrix in Chapter 9 of the Final EA (Appendix A).

Protests

The notice of competitive lease sale was posted on October 13, 2016 on the BLM website http://www.blm.gov/es/st/en/prog/minerals/current_sales_and.html. This lease sale notice initiated a 30-day protest period of the parcels proposed for the December 2016 lease sale. BLM received 105 protest submissions, out of which 100 were valid protests. One letter was filed untimely and four others did not meet the procedural requirements to be considered a valid protest letter. Of the 100 valid protest letters, three raised unique substantive protest issues and 97 letters expressed general concerns. One of the letters expressing general concerns contained 202 signatures in support of the protest. After careful consideration, the BLM issued four decision letters denying the protests. One decision letter addressed the general issues identified in the 97 letters, whereas three individual decision letters were developed for the three unique cases. The protest letters and decision letters may be found at <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage¤tPageId=103258>. As a result, none of the parcels offered for oil and gas leasing at the lease sale are subject to an unresolved protest.

CONSULTATIONS

The BLM conducted required consultation with the Ohio State Historic Preservation Office (SHPO) and tribes. The BLM initiated consultation with the Ohio SHPO under Section 106 of the NHPA, by letter dated November 16, 2015. To date, the SHPO has not responded to the letter, indicating that they have found no adverse effects within the scope of the Proposed Action. Further consultation would occur at the APD phase prior to ground disturbing activities. On November 6, 2015, the BLM sent certified letters to seven federally recognized tribes who have a known connection to the area notifying them of the Proposed Action and asking them to identify any concerns with respect to the Proposed Action. To date, the BLM has received no responses to these letters. Further tribal consultation would occur at the APD stage.

The U.S. Forest Service has completed consultation requirements with the U.S. Fish and Wildlife Service (USFWS) under Section 7 of the ESA with respect to federally listed species in the development of the 2006 LRMP/EIS. In coordination with the USFWS, a tiered approach to future consultations was implemented. Because the BLM was a cooperating agency in the 2006 LRMP/EIS, the consultation conducted with respect to the LRMP/EIS applies to the Proposed Action analyzed in the EA. As the BLM analyzes individual projects pursuant to the 2006 LRMP, the BLM would complete the required Tier II consultation under the ESA.

RATIONALE FOR DECISION

The decision to authorize the recommended alternative is based on the following:

- Consistency with the resource management plan and the land use plan - the decision is consistent with, and in conformance with, the 2006 WNF LRMP/FEIS and ROD (January 2006).
- National Policy & Purpose and Need – The Proposed Action meets the BLM’s purpose and need for action, which is to support the development of oil and natural gas resources that are essential to meeting the nation’s future needs for energy while minimizing adverse effects to natural and cultural resources. The BLM minimizes adverse effects to resources by identifying appropriate lease stipulations and notices, best management practices, and mitigations. It is the policy of the BLM as mandated by various laws, including the Mineral Leasing Act of 1920, as amended (30 United States Code [USC] 181 et seq.), the Federal Land Policy and Management Act of 1976 (FLPMA), and the Energy Policy Act of 2005 to make mineral resources available for development to meet national, regional, and local needs. The oil and gas leasing program managed by the BLM encourages the sustainable development of domestic oil and gas reserves which reduces the dependence of the United States on foreign sources of energy as part of its multiple-use and sustainable yield mandate.
- Agency statutory requirements - the decision is consistent with all required federal, state, tribal, and county regulations and policies required for the implementation of the Proposed Action.
- Relevant resource issues and finding of no significant impact - as described in the EA, there would be no direct impacts associated with leasing. There is the potential for minor adverse indirect impacts to resources as a result of potential future oil and gas development; however, none of the impacts were identified as significant and therefore, a finding of no significant impact (FONSI) was prepared. Therefore, an environmental impact statement (EIS) is not required. Additional site-specific NEPA documentation would be completed at the Application for Permit to Drill (APD) stage, should future development occur. All required consultations under the ESA and NHPA, have been completed.
- Application of measures to minimize environmental impacts - standard terms and conditions, as well as stipulations identified in the EA would apply, as required by 43 CFR 3131.3.

APPEALS PROCEDURES

In accordance with 43 CFR 4.411 and 4.413, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision to the Interior Board of Land Appeals (IBLA). The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR 4.411 and 4.412, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.21(b) and 4.413(a), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. At this time, the BLM will not accept protests or appeals sent by electronic mail. Within 15 days of

filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal, and any petition for stay, on any person named in the decision and listed at the end of the decision, and on to the appropriate Office of the Solicitor.

STANDARDS FOR OBTAINING A STAY

Pursuant to 43 CFR 4.21(b) (1), a petition for stay, if filed, must show sufficient justification 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.

Authorized Officer:



Karen E. Mouritsen
State Director, BLM Eastern States

12-12-16
Date