

**United States Department of the Interior
Bureau of Land Management
LLNM921000**

**Record of Decision
for
Surface Management of Gas Leasing and Development
Carson National Forest, Jicarilla Ranger District
NEPA # DOI-BLM-NM-F010-2013-0417-EIS
Date: December 6, 2012**

Location: Rio Arriba County, New Mexico

BLM Farmington Field Office
6251 College Blvd. Suite A
Farmington, NM 87402
Phone: (505) 564-7600
Fax: (505) 564-7608

I. Introduction

The Forest Supervisor, United States Department of Agriculture (USDA) Forest Service, Carson National Forest has authorized the Bureau of Land Management (BLM) to offer for lease approximately 5,000 acres of currently unleased National Forest System lands on the Jicarilla Ranger District, with applicable stipulations. Forest Service regulations under 26 C.F.R. § 228.102(e) allow the agency to authorize the BLM to lease individual, specific areas of land administratively available for lease and to include the stipulations determined to be necessary.

To support this authorization, the Forest Service prepared an Environmental Impact Statement (EIS) and Record of Decision (ROD) for Surface Management of Gas Leasing and Development in the Jicarilla Ranger District (August 2008). The EIS and ROD applies to the Jicarilla Ranger District, which encompasses more than 153,000 acres in the northwest portion of New Mexico, within the San Juan Basin. The decision in the EIS and ROD includes a leasing decision for the specific lands currently unleased on the Jicarilla Ranger District and any leases that expire or are relinquished in the future, subject to appropriate stipulations and management objectives.

II. Adoption of the Forest Service EIS

The Forest Service Final EIS (FEIS) for Surface Management of Gas Leasing and Development in the Jicarilla Ranger District (August 2008) analyzed the environmental effects associated with leasing all surface parcels identified in this document. Resource areas that were analyzed include: energy minerals; soils, watershed management and water resources; air quality; vegetation; wildlife; cultural resources; visual resources; wild and scenic river eligibility; social and economic resources; environmental justice; recreation; rangeland and livestock grazing; public health; climate; geology; lithology and cumulative effects. After a review conducted in the fall of 2012, the BLM concluded that there have not been any changed circumstances that would render the analysis invalid.

The BLM served as a cooperating agency for the preparation of the EIS, and hereby adopts the EIS pursuant to 40 C.F.R. § 1506.3(c) as adequate NEPA analysis for leasing the currently unleased lands and for any leases that expire or are relinquished in the future in the Jicarilla Ranger District. The analysis presented in the EIS is hereby incorporated by reference. Specifically, Chapter 2 of the FEIS (pages 25-27 and Table 1) describes the criteria for stipulations that will be applied to existing and new leases under the proposed action, and Chapter 3 of the FEIS (pages 55-322) describes the affected environment and the environmental consequences associated with leasing the previously unleased parcels.

Because the BLM was a cooperating agency in the preparation of the EIS, and because the BLM had an opportunity to independently review the EIS prior to its finalization and all BLM comments and suggestions were addressed in the EIS, recirculation of the document is not necessary under 40 C.F.R. § 1506.3(b).

Additional environmental analysis will be prepared for all leases, which will tier to and/or incorporate by reference the analysis in the FEIS.

III. Alternatives

A. *Selected Alternative and Management Considerations - Alternative B*

Alternative B was the selected alternative in the Forest Service ROD, and BLM concurs in the selection of Alternative B and adopts Alternative B herein. Alternative B authorizes for lease approximately 5,000 previously unleased acres, and recognizes the Bancos, La Jara, and Valencia Canyons, and Fierro Canyon and Mesa as areas of resource concern. The alternative responds to the purpose and need for the action, to “identif[y] a need for the orderly development of domestic mineral resources on the entire Jicarilla Ranger District to help meet the public’s need for natural gas” (FEIS, Page 3), while protecting other valuable resource assets. This decision was made in accordance with the National Forest Management Act of 1976 (16 U.S.C. §§ 1600-1614 et seq.) which provides for the multiple use and sustained yield of goods and services from the National Forest System in a way that maximizes long-term net public benefits in an environmental sound manner (36 CFR 219.1(a)).

The leasing decision incorporates the lease terms and stipulations determined by the Forest Service to be necessary and justifiable to mitigate effects to surface resources, based on analysis documented in the FEIS. These stipulations are described below in Tables 1 and 2. No surface occupancy (NSO) or controlled surface use (CSU) stipulations are imposed where resource protection or mitigation needs are greater than that provided by standard lease terms. With the adoption of these terms and stipulations, all practicable means to avoid or minimize environmental harm from the alternative selected have been adopted. The Forest Service and BLM will monitor and enforce these mitigation measures and stipulations in accordance with regulatory requirements at 43 C.F.R. § 3160 et seq. and 36 C.F.R. § 228 et seq..

Table 1 - Parcels Made Available for Lease

<u>Unleased Parcel ID#</u>	<u>Legal Description</u>	<u>Stipulations</u>	<u>BLM Adjudicated Acres</u>
1	T.0280N, R.0040W, NM PM, NM Sec. 024 All	FS1 (NM) Jicarilla FS3 (NM) LN-2 FS3 (NM) CSU-5 FS3 (NM) NSO-9 FS3 (NM) TLS-4	640.000
2	T.0290N, R.0050W, NM PM, NM Sec. 001 Lots 1-7 Sec. 001 SWNE, S2NW, SW, W2SE	FS1 (NM) Jicarilla FS3 (NM) LN-2 FS3 (NM) NSO-3 FS3 (NM) TLS-4	555.220
4	T.0300N, R.0040W, NM PM, NM Sec. 035 NESE	FS1 (NM) Jicarilla FS3 (NM) LN-2 FS3 (NM) CSU-5 FS3 (NM) TLS-4	40.000
5	T.0310N, R.0040W, NM PM, NM Sec. 034 All	FS1 (NM) Jicarilla FS3 (NM) LN-2	640.000

		FS3 (NM) NSO-8	
6	T.0310N, R.0050W, NM PM, NM Sec. 001 Lots 1, 2 Sec. 001 SE	FS1 (NM) Jicarilla FS3 (NM) LN-2 FS3 (NM) CSU-5 FS3 (NM) NSO-5 FS3 (NM) TLS-4	183.950
8	T.0320N, R.0040W, NM PM, NM Sec. 007 S2	FS1 (NM) Jicarilla FS3 (NM) LN-2 FS3 (NM) NSO-4	262.540
9	T.0320N, R.0040W, NM PM, NM Sec. 032 S2	FS1 (NM) Jicarilla FS3 (NM) LN-2 FS3 (NM) CSU-5 FS3 (NM) NSO-3 FS3 (NM) TLS-4	320.000
10	T.0320N, R.0050W, NM PM, NM Sec. 021 E2W2	FS1 (NM) Jicarilla FS3 (NM) LN-2 FS3 (NM) CSU-5 FS3 (NM) TLS-4	160.000
11	T.0320N, R.0050W, NM PM, NM Sec. 028 E2	FS1 (NM) Jicarilla FS3 (NM) LN-2 FS3 (NM) CSU-5 FS3 (NM) NSO-7 FS3 (NM) TLS-4	320.000
12	T.0320N, R.0050W, NM PM, NM Sec. 034 S2 Sec. 034 SW	FS1 (NM) Jicarilla FS3 (NM) LN-2 FS3 (NM) NSO-7	480.000
13	T.0320N, R.0050W, NM PM, NM Sec. 009 Lots 1-3 Sec. 009 S2NE, SENW, E2SW, SE	FS1 (NM) Jicarilla FS3 (NM) LN-2 FS3 (NM) CSU-5 FS3 (NM) TLS-4	418.780
14	T.0310N, R.0040W, NM PM, NM Sec. 035 N2	FS1 (NM) Jicarilla FS3 (NM) LN-2 FS3 (NM) CSU-5 FS3 (NM) NSO-8 FS3 (NM) TLS-4	320.000
15	T.0300N, R.0040W, NM PM, NM Sec. 011 Lots 1-12; Sec. 011 N2NE, W2SW	FS1 (NM) Jicarilla FS3 (NM) LN-2 FS3 (NM) CSU-5 FS3 (NM) TLS-4	433.110

Table 2 - Stipulation Summaries

Stipulation	Description/Purpose
FS 1 NM Jicarilla	STIPULATION FOR LANDS OF THE NATIONAL FOREST SYSTEM UNDER JURISDICTION OF DEPARTMENT OF AGRICULTURE The lessee/operator must comply with all the rules and regulations of the

	Secretary of Agriculture set forth at Title 36, Chapter II, of the code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of the Interior in the permit. The lessee/operator may be required to conduct a cultural resource inventory of the proposed surface disturbance and implement mitigation measures to preserve or avoid destruction of cultural resource values. The Forest Service must meet the Endangered Species Act consultation requirements prior to any surface disturbing activities. The consultation may result in modification of or restrictions on proposed surface disturbing activities.
FS 3 NM CSU-5	CONTROLLED SURFACE USE – SLOPES Well pad construction is prohibited on slopes greater than 20% with cuts over 15 feet. Road construction is prohibited on slopes greater than 40%.
FS 3 NM LN-2	LEASE NOTICE – CULTURAL RESOURCE All development activities proposed under the authority of this lease are subject to compliance with Section 106 of the National Historic Preservation Act and Executive Order 13007. Compliance could require intensive cultural resource inventories, Native American consultation, modification to surface use operating plans and mitigation measures to avoid adverse effects.
FS 3 NM NSO-3	NO SURFACE OCCUPANCY– MEXICAN SPOTTED OWL HABITAT No surface occupancy or use is allowed in order to protect Mexican spotted owl habitat.
FS 3 NM NSO-4	NO SURFACE OCCUPANCY – SLOPES/MEXICAN SPOTTED OWL NESTING HABITAT No surface occupancy or use is allowed in order to protect soil and water resources on slopes greater than 40% and to protect Mexican spotted owl nesting habitat.
FS 3 NM NSO-5	NO SURFACE OCCUPANCY – SLOPES/WILDLIFE/CULTURAL/BANCOS AREA OF RESOURCE CONCERN No surface occupancy or use is allowed in order to protect soil and water resources on steep slopes, to protect wildlife security and seclusion, to protect cultural resources and to protect the Bancos area of resources concern.
FS 3 NM NSO-6	NO SURFACE OCCUPANCY – FEDERALLY LISTED SPECIES No surface occupancy or use is allowed in order to protect Federally listed species.
FS 3 NM NSO-7	NO SURFACE OCCUPANCY – BANCOS CANYON No surface occupancy or use is allowed in Bancos Canyon to protect surface resources, wildlife security and seclusion, and soil and water resources.
FS 3 NM NSO-8	NO SURFACE OCCUPANCY – MEXICAN SPOTTED OWL ACTIVITY CENTER/CRITICAL HABITAT No surface occupancy or use is allowed within identified Mexican spotted owl protected activity center and designated critical habitat.
FS 3 NM NSO-9	NO SURFACE OCCUPANCY – VALENCIA CANYON No surface occupancy or use is allowed in Valencia Canyon to protect undeveloped characteristics and potential impacts to cultural resources,

	wildlife security and seclusion.
FS 3 NM NSO-10	NO SURFACE OCCUPANCY – LA JARA CANYON No surface occupancy or use is allowed in La Jara Canyon area of resource concern.
FS 3 NM TLS-4	TIMING LIMITATION STIPULATION – WINTER WILDLIFE DISTURBANCE No surface use is allowed November 1 through March 31. This restriction does not apply to operation and maintenance of production facilities.

B. Other Alternatives Considered

Three other alternatives, including a no-action alternative, were considered in detail and are discussed below.

1. Alternative A, No Action

Under the no action alternative, Alternative A, no change in existing management of gas development would occur on the Jicarilla Ranger District.

2. Alternative C

Under Alternative C, the unleased 5,000 acres would not be authorized for lease. However, under this alternative, the Bancos, La Jara, and Valencia Canyons, and Fierro Canyon and Mesa are recognized as areas of resource concern.

3. Alternative D

Alternative D is similar to Alternative B, except that the Bancos, La Jara, and Valencia Canyons, and Fierro Canyon and Mesa would not be recognized as areas of resource concern.

C. Environmentally Preferable Alternative

Alternative C would be the environmentally preferable alternative, as it would not authorize the BLM to offer for lease the currently unleased acres in the Jicarilla Ranger District, while recognizing the areas of resource concern described above. The decision to adopt Alternative B, rather than Alternative C, and lease previously unleased lands for oil and gas development may have adverse impacts upon the quality of the human environment. However, these impacts have been mitigated through the incorporation of site-specific stipulations.

Alternative C, although the environmentally preferable alternative, would not satisfy the project purpose and need, would not satisfy national policy directing BLM to manage the public lands in a manner which recognizes the Nation's need for domestic sources of minerals per Section 102(a)(12) of the Federal Lands Policy and Management Act, the mandate under FLPMA that BLM manage resources in accordance with principles of multiple use and sustained yield, and the Mineral Leasing Act's directive to promote the mining of oil and gas on the public domain. Additionally, Alternative C would make it more difficult to lessees to attain maximum economic

recovery of the leased resource per BLM's regulations at 43 CFR 3160. The BLM has determined that Alternative B, with the inclusion of site-specific stipulations that mitigate impacts, best balances meeting the project purposes and need and protecting the environment.

IV. Public Involvement

The USDA Forest Service initially published a notice of intent (NOI) in the Federal Register (67 FR 52706-52709, August 13, 2002) for the proposed surface management of natural gas resource development on the Jicarilla Ranger District, Carson National Forest. As part of the public involvement process for the DEIS, the agency mailed a description of the purpose and need, the proposed action, and a project timeline to more than 500 agencies, organizations, and citizens. Public meetings, using an open house format, were duly noticed and were held in Bloomfield and Farmington, New Mexico. A total of six people attended these public scoping meetings and the Forest Service received 17 letters with comments on the proposed action. The DEIS for this proposal was released in October 2003.

Based on public comments received on the DEIS, the Carson National Forest Supervisor determined there was a need to clarify the purpose and need for action and modify the proposed action. He subsequently withdrew the DEIS and published a revised NOI in the Federal Register (69 FR 59881-59883) on October 6, 2004. Public comments on the withdrawn DEIS were taken into account in the development of the proposed action for the revised NOI.

Another comment period occurred following the 2004 revised NOI. A summary of the new proposed action and purpose and need was mailed to more than 500 individuals and a detailed description of the proposed action was posted on the Carson National Forest web site (www.fs.fed.us/r3/carson). Twelve letters with comments were received during this comment period. Additionally, two meetings, for which public notice was provided, were held on November 23 and December 6, 2004, with groups that desired more information about the proposed action. A total of nine people attended these meetings. Using the comments provided from the public, other agencies, and industry representatives during scoping, an interdisciplinary team developed a list of issues related to the proposed action. Alternatives to the proposed action were developed to address significant issues. A notice of availability for the second DEIS was published in the Federal Register on February 16, 2007 (72 FR 7653). A 60-day comment period followed. Thirty-one comment letters were received from various Federal and State agencies, including the BLM, tribes, special interest groups, leaseholders, industry representatives, and individuals. The letters were reviewed, comments were organized by topic, and responses to these comments can be found in appendix E of the FEIS.

Amended notices related to correcting EIS release dates and changing the responsible official were published in the *Federal Register* on May 15, 2007 (72 FR 27282) and July 8, 2008 (73 FR 38969-70).

The FEIS and ROD was issued on September 24, 2008. That FEIS is hereby adopted pursuant to 40 C.F.R. § 1506.3.

V. Administrative Review and Appeal

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 § 4.400 and Form 1842-1, Information on Taking Appeals to the Interior Board of Land Appeals. If an appeal is taken, a Notice of Appeal must be filed in this office at the aforementioned address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. 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 of this Decision, pursuant to 43 C.F.R. § 4.21, the Petition must accompany your Notice of Appeal. A Petition for a Stay is required to show sufficient justification based on the standards listed below. Copies of the Notice of Appeal and Petition for a Stay **must** also be submitted to each party named in the Decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 C.F.R. § 4.413) at the same time the original documents are filed with this office. 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 regulation, a petition for a stay of a Decision pending appeal shall 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.

VI. Decision

I have reviewed the FEIS and ROD for Surface Management of Gas Leasing and Development in the Jicarilla Ranger District and I have determined that the analysis in the FEIS is sufficient to support BLM decisions relating to specific lands currently unleased on the Jicarilla Ranger District and any leases that expire or are relinquished in the future, subject to appropriate stipulations and management directives. Therefore, I fully adopt the decisions and rationale described in the FEIS and ROD.

Recommended by:

/s/ Gary Torres
Gary Torres, Field Manager, Farmington Field Office

I Concur,

/s/ David Evans
David Evans, District Manager, Farmington Field Office

Approved by,

/s/ Aden Seidlitz
(for) Jesse Juen, State Director, BLM New Mexico