



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Colorado River Valley Field Office
2300 River Frontage Road
Silt, Colorado 81652
www.co.blm.gov

CATEGORICAL EXCLUSION

NEPA LOG NUMBER: DOI-BLM-CO-N040-2013-0059-CX

Background

BUREAU OF LAND MANAGEMENT (BLM) OFFICE: Colorado River Valley Field Office (CRVFO), Silt, Colorado

CASEFILE/PROJECT NUMBER: COC66706, COC66707, COC66708, COC66709, COC66710, COC66711, and COC66712 (Federal Oil and Gas Leases)

PROPOSED ACTION TITLE/TYPE: Request to Suspend Operations and Production Requirements on Seven Federal Oil and Gas Leases

LOCATION OF THE PROPOSED ACTION: Federal lands administered by the USDA Forest Service (“USFS”), White River National Forest (“WRNF”), Portions of Garfield, Pitkin, and Mesa Counties, Colorado associated with the above lease numbers

APPLICANTS: Ursa Piceance LLC, 1050 Seventeenth Street, Suite 2400, Denver, Colorado 80265; Antero Resources Piceance Corporation, 1625 Seventeenth Street, Denver, Colorado 80202.

DESCRIPTION OF PROPOSED ACTION: Ursa Piceance LLC (“Ursa”) and Antero Resources Piceance Corporation (“Antero”), jointly referred to as “Applicants,” have requested suspension of five Federal Oil and Gas Leases with effective dates of June 1, 2003 and two federal oil and gas leases with effective dates of September 1, 2003 (collectively the “subject Leases”). The subject Leases were acquired by the Applicant from Antero Resources Piceance Corporation effective October 1, 2012. The Applicants have submitted to the BLM a request for assignment of the Leases. The request for assignment has not yet been approved by the BLM.

Beginning in 2009, Ursa’s predecessor in interest, Antero, initiated with the BLM and USFS preliminary project planning for an initial exploratory drilling program. The first application for permit to drill (“APD”) was submitted by Antero on April 5, 2012, for a well (LBCF 14-17-08-90) to be drilled into Lease COC66708. On August 2, 2012, Antero applied to the BLM for approval of the Wolf Springs Unit, which would include the subject Leases. The BLM has not yet made a determination regarding creation of the Unit, and will not reach a decision until completion of additional National Environmental Policy Act (“NEPA”) analysis addressing the decisions to issue the subject Leases. However, if the Unit is approved, Ursa’s initial exploratory well would serve as the obligation well for the Unit. The USFS is nearing completion of its NEPA Environmental Assessment (“EA”) for the initial well pad and initial

exploratory well, the single well pad on which it would be located, and ancillary facilities (production equipment, access road, and pipelines).

The BLM has determined that additional NEPA analysis is needed to address the decision to issue the Leases to determine whether the leases should be voided, reaffirmed or subject to additional mitigation measures for site-specific development proposals.. The BLM requires additional time to complete this effort. BLM delayed designation of the unit and APD(s) until a determination was made regarding lease NEPA adequacy. The BLM is now delaying those actions pending completion of that analysis and resolution of leasing decision issues. Therefore, no surface-disturbing activities or initiation of drilling will be authorized until NEPA analysis addressing the leasing decisions and any site-specific development proposals is completed.

Ursa is currently negotiating with the Thompson Divide Coalition, an organization that wishes to purchase the leases or otherwise limit or prevent their future development. Depending on the outcome of those negotiations and the request to the BLM for creation of the Wolf Springs Unit, Ursa anticipates that additional NEPA analysis by the BLM and USFS in connection with development of the initial Lease and of the remainder of the Leases. This additional NEPA analysis would be associated with review by the BLM and USFS of subsequent APDs.

For the reasons cited above, the Applicants have sought suspension of the seven Leases as relief from the pending expirations dates in 2013 and has asked that the suspensions be made effective as of February 1, 2013.

Land Use Plan Conformance

The proposed action is subject to and has been reviewed for and is in conformance with (43 CFR §1610.5.3 and BLM 1601-1) the following plan:

Land Use Plan (LUP) Name: The current land use plan applicable to the subject Leases is the 1993 *Oil and Gas Leasing Final Environmental Impact Statement, White River National Forest*. The BLM relies on Forest Service planning decisions to determine which areas are available for lease. When a lease is nominated for sale, the BLM requests a letter of concurrence from the Forest Service to ensure the action is consistent with their planning documents. National Forest System lands may not be leased over the objection of the Forest. 43 CFR 3101.7-1.

Date Approved/Amended: 1993

Determination of Conformance:

_____ The proposed action is in conformance with the applicable LUP because it is specifically provided for in the following LUP decisions:

X The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decisions:

The WRNF 1993 Oil and Gas Leasing EIS stated the following as its Purpose and Need:

- To disclose the effects of alternative decisions the Forest Service may make to lease lands on the White River National Forest for oil and gas exploration and development.
- To comply with the Federal Onshore Oil and Gas Leasing Reform Act of 1987 and its implementation regulation 36 CFR 228.102.

In 2003, the WRNF made the decision to consent to issuance of the subject Leases by the BLM. The subject leases were issued and administered under the applicable federal oil and gas regulations. Those regulations, at 36 CFR 228.102 et seq., apply to the issuance of leases on National Forest System lands and the subsequent operation and inspection of federal oil and gas wells drilled, completed, and produced pursuant to those leases. However, federal regulations at 36 CFR 228.102 et seq. do not make specific mention of requests for a suspension of lease operations. Instead, the Mineral Leasing Act of 1920, as amended, 30 USC 209; and the implementing regulation at 43 CFR 3103.4-4 (Suspension of Operations and/or Production) expressly grant to BLM the authority to grant suspensions of operation and production in the “interest of conservation of natural resources.” Therefore, a determination by the BLM to grant the Applicants’ request for suspension of operations on the seven Leases is consistent with 43 CFR 3103.4-4 and therefore in compliance with the current LUP prepared by the WRNF.

Compliance with NEPA

The proposed action is categorically excluded from further documentation under NEPA in accordance with 43 CFR 46.205 and 516 DM 11.9 (B) (Oil, Gas, and Geothermal Energy). “Approval of suspensions of operations, force majeure suspensions, and suspensions of operations and production.” This CX is correctly applied to the proposed action because granting by the BLM of a lease suspension is an administrative action that does not authorize surface-disturbing activities or other operations with the potential to affect the environment, but merely preserves the status quo of non-development. Nor does a lease suspension extend the term of beneficial use of a lease. A lease suspension therefore creates no environmental impact.

As noted above, no surface-disturbing activities or initiation of drilling activities related to any federal oil and gas well on the seven Leases would be authorized except as analyzed and approved in subsequent project-specific NEPA analyses.

An action that is normally categorically excluded must be evaluated to determine whether it meets any “extraordinary circumstances” in which a normally excluded action may have a significant environmental impact. 43 CFR 46.205(c), 46.215. The applicability of extraordinary circumstances is determined by the responsible official. *Id.* § 46.215. The proposed action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 and the BLM NEPA Handbook H-1790-1, App. 5 (Table 1) was found to apply. Any “Yes” answer in Table 1 would preclude use of the CX.

Table 1. Extraordinary Circumstances	Yes	No
1. May have significant impacts on public health and safety.		<u>No</u>
2. May have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild and scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 119880; national monument; migratory birds; and other ecologically significant or critical areas.		<u>No</u>
3. May have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources (NEPA Section 102 (2) (E)).		<u>No</u>
4. May have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.		<u>No</u>
5. May establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.		<u>No</u>
6. May have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.		<u>No</u>

Table 1. Extraordinary Circumstances		Yes	No
7.	May have significant impacts on properties listed or eligible for listing, on the National Register of Historic Places as determined by either the bureau or office.		<u>No</u>
8.	May have significant impacts on species listed or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.		<u>No</u>
9.	May violate a Federal law, or a state, local, or tribal law or requirement imposed for the protection of the environment.		<u>No</u>
10.	May have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).		<u>No</u>
11.	May limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred sites (Executive Order 13007).		<u>No</u>
12.	May contribute to the introduction, continued existence, or spread of noxious weed or non-native invasive species known to occur in the area or actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).		<u>No</u>

Commenters on the proposed action have raised the potential for six specific extraordinary circumstances to be present for the proposed action. Further analysis and an environmental document must be prepared for the action where extraordinary circumstances are present. Extraordinary circumstances exist only where a proposed action may have a significant environmental effect. 43 CFR 46.205(c); *Utah Env'tl. Cong. v. Bosworth*, 443 F.3d 732, 742 (10th Cir. 2006). For the reasons previously noted, a grant of suspension creates no significant environmental impact, and therefore no extraordinary circumstances exist. The BLM has considered comment from interested parties and finds that the resources or concerns addressed in the extraordinary circumstances are not present and that the proposed action will have no significant impacts.

The first extraordinary circumstance raised by commenters is for actions that may have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources, park, recreation or refuge lands, wilderness areas, and the like, including “other ecologically significant or critical areas.” 43 CFR 46.215(b). The WRNF previously made the lease area available for oil and gas leasing in conformance with the WRNF’s existing management plans and rules, and did not designate the lease area as ecologically significant or critical, or as possessing any of the other characteristics within this extraordinary circumstance, so as to preclude oil and gas leasing. Suspension itself precludes beneficial use of a lease and therefore results in no significant environmental impacts to the resource values subject to this extraordinary circumstance. Furthermore, the suspension would not authorize any surface-disturbing or other activities with the potential to cause adverse impacts. Such authorization would result only upon preparation of a site-specific, project-specific environmental analysis pursuant to Departmental NEPA regulations. Thus, the resource values addressed in this extraordinary circumstance will be subject to additional analysis for actions with potential for significant environmental impacts.

The second extraordinary circumstance is for actions that may have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resource. 43 CFR 46.215(c). The term “controversial” for purposes of the Departmental NEPA regulations means substantial dispute over the environmental consequences of the proposed action and does not refer to public opposition. 43 CFR § 46.30. The potential environmental effects of oil and gas leasing and development in the WRNF are well understood and are not in substantial dispute. In addition to the absence of a potential for significant impacts from the proposed action, since the leasing decision was made in conformance with the WRNF’s existing land use planning allocations, there is little potential for

the existence of any unresolved conflicts concerning alternative uses of available resources. Furthermore, any unresolved conflicts concerning alternate uses of resources would be addressed in NEPA analysis addressing the decision to issue the leases. NEPA analysis on the leasing decision and development proposals will allow for public participation and will afford the public the opportunity to raise concerns with the potential environmental effects of those actions.

Third, the proposed action does not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects. 43 CFR 46.215(e). Lease suspension does not authorize surface disturbance and will maintain the environmental status quo during the preparation of environmental analysis on the leasing decision and site-specific development proposals. Those actions will be evaluated on their own merit based on the relevant NEPA analysis. Lease suspension creates no precedent or decision in principle on those actions.

Fourth, the proposed action has no “direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.” 43 CFR 46.215(f). Suspension preserves the environmental status quo by prohibiting beneficial use of a lease and results in no direct environmental impacts. Nor does suspension extend the period of beneficial use of the subject Leases. Suspension, therefore, will itself not result in any insignificant environmental effects that when combined with other insignificant actions would result in cumulatively significant effects. Here, the purpose of the suspensions is the interest of conservation of natural resources (e.g., to allow for additional NEPA analysis on leasing decisions, as well as to allow for negotiations which may affect the scope of that analysis to continue). Although the lessee has demonstrated intent to develop the area under a unit plan of operations, the purposes of the suspensions are not directly related to future development proposals. Furthermore, at this time it is uncertain whether future development plans for the subject leases would result in cumulatively significant impacts. That determination will be made through appropriate NEPA analysis and there is no risk that any individually insignificant but cumulatively significant impacts will go undisclosed.

Fifth, the proposed action will not violate a Federal law, or a State, local, or tribal law or requirement imposed for the protection of the environment. 43 CFR 46.215(i). Again, lease suspension prohibits beneficial use of a lease and does not authorize any specific activity subject to environmental regulation. As noted, lease suspension results in no significant environmental impacts and therefore would not threaten to violate an environmental protection law. Any actions associated with the leases with the potential for significant environmental effects will be addressed in the NEPA analysis or analyses to be performed on the leasing decisions and site-specific development proposals. Compliance with other applicable environmental laws will be addressed as appropriate in that NEPA analysis and prior to further decisions on the subject Leases or any authorization of development activities.

Last, the proposed action will not contribute to the introduction, continued existence, or spread of noxious weeds or non-native invasive species. 43 CFR 46.215(l). Lease suspension does not authorize surface-disturbing activities or other operations with the potential to affect the environment, but merely preserves the status quo of non-development. A lease suspension therefore creates no potential for the introduction, continued existence, or spread of noxious weeds or non-native invasive species. Proposals for actions with the potential for environmental impacts addressed in this extraordinary circumstance will be subject to site-specific environmental analysis, including, as appropriated, the identification and evaluation of relevant mitigation.

Persons and/or Agencies Consulted

Glenn R. Adams, District Ranger, Rifle Ranger District, White River National Forest
David A. Francomb, Deputy District Ranger, Sopris Ranger District, White River National Forest

BLM Review

In addition to the preparer and undersigned, BLM staff from the Colorado State Office, Fluid Minerals Program, listed in Table 2 participated in the preparation of this CX.

Table 2. BLM Reviewers		
Name	Title	Areas of Participation
Jerome D. Strahan, P.E.	Chief, Branch of Fluid Minerals	Suspension
Henry C. Szymanski	Petroleum Engineer	Suspension
Patrick F. Gallagher, P.E.	Petroleum Engineer	Suspension
Megan A. Stouffer	Branch Chief of Planning and Assessment	NEPA

Remarks/Mitigation: None

Name of Preparer: Allen B. Crockett, Supervisory NRS

Date: April 8, 2013

Decision and Rationale: I have reviewed this categorical exclusion record and have decided to implement the proposed action.

I have reviewed Section B, Land Use Plan Conformance, and Section C, Compliance with NEPA, and have determined that the Proposed Activity is in conformance with the applicable land use plan(s) and referenced NEPA documents. This action is listed in the Department Manual as an action that may be categorically excluded. The categorical exclusion is appropriate in this situation because there are no extraordinary circumstances potentially having effects that may significantly affect the environment. The proposed action has been reviewed, and none of the extraordinary circumstances described in 43 CFR 46.215 and the BLM NEPA Handbook H-1790-1, App. 5, apply.

In making this decision, I have considered comment from interested parties, although all such comments may not be expressly addressed herein.

I considered the potential impacts from issuance of a suspension of operations and production and have determined that no impacts would result from approval of this action and that any future development proposals with the potential to create environmental impacts would require additional NEPA analysis. Future NEPA analysis or analyses would consider the underlying leasing decisions as well as development proposals.

Signature of Authorized Official: 
for Steve G. Bennett, Field Manager

Date Signed: 4/8/2013