

Split Estate



Background Information

The BLM manages 700 million acres of subsurface mineral estate nationwide, including areas where the surface estates are owned or administered by different entities. These areas are called split estate. The BLM manages approximately 58 million acres of split estate where federal mineral estate lies beneath surface that is privately owned. The majority of federal oil and gas wells in the RGFO are on surface lands not managed by the federal government. In many cases, the surface rights and mineral rights were severed under the terms of United States homesteading laws. These and other federal laws, regulations, and BLM policy directives give BLM managers the authority and direction for administering the development of federal mineral resources beneath privately owned surface. These laws, regulations, and policies include:

- Coal Lands Acts of 1909 and 1910
- Agricultural Entry Act of 1914
- Stock Raising Homestead Act of 1916, as amended
- Mineral Leasing Act of 1920, as amended
- Act of May 21, 1930
- Energy Policy Act of 2005
- Federal Land Policy and Management Act of 1976
- Onshore Oil and Gas Orders
- BLM and Forest Service Oil and Gas Gold Book
- BLM Instruction Memorandums

Oil and Gas

Mineral rights are considered dominant, meaning that they take precedence over the other property rights, including those associated with surface ownership. However, the mineral owner must show due regard for the interests of the surface estate owner and occupy only those portions of the surface that are reasonably necessary to develop the mineral estate. Under the laws, regulations, and procedures listed above, the leasing and development of federal mineral resources occur in four phases:

- Planning and leasing
- Permitting
- Drilling and production
- Well Plugging and Surface reclamation

The BLM's split estate policy only applies to situations where the surface rights are owned by someone other than the federal government and the mineral resources development rights are publically held and managed by the federal government. The State of Colorado also has some authority over oil and gas operations on privately owned surface estate. The BLM administers public lands, including the federal mineral estate, to enhance the quality of life for present and future generations of Americans, under a mandate of multiple use as described in the Federal Land Policy and Management Act of 1976. In the Energy Policy Act of 2005, Congress ordered a report reviewing current policies and practices that the BLM uses in managing oil and natural gas resources in split estate situations in order to more clearly identify the rights of the surface owner in split estate mineral situations. Congress directed the BLM to consult with affected property owners, representatives of the oil and gas industry, and other interested parties while completing the review to consider how best to facilitate reasonable access for federal oil and gas activities and minimize impacts on non-federal surface. In response, the BLM revised the Onshore Oil and Gas Order Number 1 and issued the Oil and Gas Gold Book in 2007.

Parcels of mineral estate open for leasing under the terms of the RMP may be nominated for leasing by interested parties. The BLM reviews every nomination to ensure that leasing the parcel would conform to the terms of the RMP. The Eastern Colorado RMP/EIS process will determine areas of federal mineral estate, including split estate that may be available for leasing. The public is encouraged to participate and comment on the preparation of the RMP in reference to split estate land use.