



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-N040-2014-0052-CX

Background

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

CASEFILE/PROJECT NUMBER: COC66723 (Federal Oil and Gas Lease)

PROPOSED ACTION TITLE/TYPE: Request to Suspend Operations and Production Requirements on the Federal Oil and Gas Lease cited above.

LOCATION OF THE PROPOSED ACTION: Federal lands associated with the above lease number and administered by the United States Forest Service (USFS), White River National Forest (WRNF), Mesa County, Colorado, as follows: Sections 35 and 36, Township 8 South, Range 92 West, Sixth Principal Meridian.

APPLICANTS: Axia Energy, 1430 Larimer Street, Suite 400, Denver, Colorado 80202; OXY USA WTP LP, 760 Horizon Drive, Suite 101, Grand Junction, Colorado 81506.

DESCRIPTION OF PROPOSED ACTION: Axia Energy (Axia) and OXY USA WTP LP (OXY), jointly referred to hereafter as "Applicants," have requested suspension of Federal Oil and Gas Lease COC66723 with an effective date of June 1, 2003. The subject Lease is subject to a Farm-out Agreement between the Applicants effective January 17, 2014.

On February 10, 2012, OXY filed an Application for Permit to Drill (APD) for the Hells Gulch Federal 35-03A (26-11) well. The APD is still pending, awaiting the onsite tentatively scheduled by the WRNF for May 1, 2014, weather permitting. The Hells Gulch North Phase II Environmental Assessment NEPA Document covering the project area has already been completed by the WRNF.

The BLM has determined that additional NEPA analysis is needed to determine whether the Lease should be voided, reaffirmed, or subject to additional mitigation measures for a site-specific development proposal. The BLM requires additional time to complete this effort. The BLM delayed any decision on the APD(s) until a determination was made regarding the adequacy of the NEPA analysis on which the issuance of the lease was based. The BLM is now delaying that action pending completion of the additional analysis and resolution of issues around the decision to issue the lease. 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.

For the reasons cited above, the Applicants have sought a suspension of the Lease as relief from the pending termination date of the existing suspensions and have asked that the suspensions be made

effective as of February 1, 2014, the first day of the month in which the request was received by the CRVFO.

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 USFS 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:

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 Environmental Impact Statement stated the following as its Purpose and Need:

- To disclose the effects of alternative decisions the USFS 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 of 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 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 gives to BLM the authority to grant suspensions of operation and production in the “interest of conservation of natural resources.” Consequently, a determination by the BLM to grant the Applicants’ request for suspension of operations on Federal Leases COC66723 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. A lease suspension merely preserves the status quo of non-development and does not extend the term of beneficial use of a lease. Issuance of 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>
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>

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, granting a suspension creates no significant environmental impact, and therefore no extraordinary circumstances exist.

Persons and/or Agencies Consulted

Jason Gross, Physical Scientist/Natural Resource Specialist, White River National Forest

BLM Review

BLM staff from the Colorado River Valley Field Office who participated in review of the request for lease suspension and preparation of this CX are listed in Table 2.

Table 2. BLM Reviewers		
Name	Title	Areas of Participation
Steve Bennett	Field Manager	Review of Request
Peter Cowan	Petroleum Engineer	Review of Request
Allen Crockett	Supervisory NRS, Energy Pilot Program	Review of Request

Remarks/Mitigation: None

Name of Preparer: Steve Ficklin, Oil and Gas Program Manager, Colorado River Valley Field Office

Date: May 30, 2014

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.

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: 
Steve Ficklin, Acting Field Manager

Date Signed: 5/30/2014