

Bureau of Land Management Colorado

Oil and Gas Leasing Process

2014

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Introduction

The Bureau of Land Management (BLM) Colorado Oil and Gas Leasing Reform Implementation Strategy was prepared to comply with Washington Office (WO) Instruction Memorandum (IM) No. 2010-117, Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews (WO IM No. 2010-117). The strategy established a process to ensure orderly, effective, timely and environmentally-responsible leasing of oil and gas resources on federal lands in Colorado. The strategy complied with applicable Federal laws, regulations and the BLM policy. The strategy created more certainty and predictability to protect multiple resource values when BLM Colorado makes oil and gas leasing decisions while providing meaningful public involvement.

BLM Colorado initiated leasing reform in 2010 and the process continues to evolve. As time progressed, the strategy identified in the Implementation Strategy was further refined and adapted to meet the goals and objectives of leasing reform and address workload efficiencies. The following outlines the current oil and gas leasing process for BLM Colorado. As improvements continue, the BLM will update this document to reflect changes.

Quarterly Lease Sale Schedule

BLM Colorado holds oil and gas lease sales as required by the Mineral Leasing Act, Section 226(b)(1)(A), and the regulations at 43 CFR 3120.1-2(a). BLM Colorado developed a schedule to rotate lease sales among the field offices throughout the year to balance the workload and allow each field office sufficient time to conduct the parcel review process described above. The leasing process includes a schedule for parcel review, National Environmental Policy Act (NEPA) compliance, lease sale preparation, and public involvement. This schedule will ensure the parcel review process is efficient, yet allow adequate time to conduct a thorough and complete review. The lease sale schedule and rotation is identified on the BLM Colorado Oil and Gas Leasing webpage: www.blm.gov/co/st/en/BLM_Programs/oilandgas/leasing.html

This rotation was established to balance the average number of parcels received by each field office. The rotation among the offices may be adjusted to address changes in lease parcel review workloads. BLM Colorado may offer parcels located in any field office during any sale to address oil and gas drainage cases, unleased parcels within units, site visit delays as a result of adverse weather conditions, and delays in acquiring data or other needs that arise out of the above sequence; or offer previously-deferred parcels.

The State Director has the discretion to lease and parcels may not be offered for sale for various reasons. For example, a parcel may not be offered pending completion of a Resource Management Plan (RMP) revision or a potential change in lease stipulations (see Consideration of Ongoing Planning Efforts). If a parcel is not offered and the BLM determines it is appropriate to offer the parcel for sale at a later date, the parcel will be offered for sale as soon as reasonably possible.

Expression of Interest Adjudication Process

Expressions of Interests (EOIs) are submitted to the BLM Colorado State Office (CSO) through mail, email or fax from industry or the public requesting lands be nominated for a competitive lease sale. EOI submissions are public information and any EOI that includes the name of the submitter will be released to the public on the BLM Colorado leasing page. EOIs are accepted for each lease sale until the EOI cut-off date, which is approximately 12 months prior to the sale. Cut-off dates for each sale can be found on the BLM Colorado Oil and Gas Leasing webpage: www.blm.gov/co/st/en/BLM_Programs/oilandgas/leasing.html

All valid EOIs will be adjudicated to exclude lands that are not eligible for leasing, including non-federal minerals, existing oil and gas leases and lands that are administratively closed to leasing. Available lands will be parceled for the appropriate competitive sale.

The BLM has the authority to nominate lands for a competitive lease sale per regulation CFR 43 3120.1-1(f). Examples of a Bureau Motion to nominate lands include drainage issues and parcel integrity.

Parcels offered for competitive sale must adhere to the following guidelines:

- Maximum acreage for a competitive parcel is 2,560 acres
- Land in parcel must lie within six square miles
- Cannot combine public domain and acquired land
- Cannot combine unitized and non-unitized land

If nominated lands in an EOI are managed by another federal surface management agency, the BLM will send the parcel information to that agency for review. The BLM must have the surface management agency's concurrence before lands can be offered at a competitive sale.

In the final step of the adjudication process, the BLM CSO will attach stipulations for each parcel as identified in the applicable RMP. On lands that are managed by other agencies, suggested stipulations are reviewed and applied at this time. A preliminary parcel list is compiled and sent to the field office for further review and NEPA analysis.

Interdisciplinary Preparation and Review of Lease Sale Parcels

The purpose of the field office lease parcel review is to verify existing resource protection measures, including lease stipulations and best management practices, to protect resource objectives. Specifically, the goal of the parcel review and NEPA compliance process is to:

1. Determine whether a parcel is available and eligible for leasing.
2. Evaluate the adequacy of existing stipulations.
3. Conduct site visits, if necessary.
4. Determine whether new stipulations are necessary.
5. Provide for public involvement.

6. Identify sufficient background information to perform adequate NEPA analysis.

A core team of specialists within the Interdisciplinary Parcel Review (IDPR) Team is responsible for reviewing the preliminary lease sale parcels and writing the lease sale environmental assessment (EA). The IDPR Team will include subject-matter experts for resources potentially affected by leasing. Parcel reviews will be conducted in a group setting to encourage group discussion and interaction. Generally, the following BLM subject-matter experts will be engaged in this process:

- Natural Resource Specialist/Geologist/Physical Scientist
- Wildlife Biologist
- Archaeologist
- NEPA Coordinator
- GIS Specialist
- Botanist
- Recreation Specialist
- Soil/Air/Water Specialist
- Socioeconomic Specialist

IDPR Parcel Review Process

1. Gather and Assess Existing Information

The IDPR Team will gather and evaluate existing environmental resource information and compliance documentation to make informed leasing decisions. The field offices will determine the need for additional information and develop strategies to obtain data that may be required to support the leasing decision. It may be necessary to withhold parcels from leasing while collecting and analyzing additional resource information.

Information gathered and considered in the lease sale analysis may include:

- Areas open or closed to oil and gas leasing
- Cultural resources
- Trail management resources
- Paleontology and geology
- Vegetation (invasive and Threatened and Endangered plant species)
- Recreation, Visual Resource Management, Lands with Wilderness Characteristics and special designations
- Wildlife and fish resources
- Soils
- Water resources
- Air quality

2. Plan Conformance and Adequacy

The IDPR Team will determine whether leasing a parcel is in conformance with the existing RMP. Also, as a result of a possible change in resource conditions, a change in resource condition objectives, or other new information, the IDPR Team will evaluate whether existing lease stipulations still provide adequate resource protection. Lease stipulations may include timing limitations, conditional surface use or no surface occupancy.

If the lease stipulations do not provide adequate protection, the BLM may not offer a parcel to develop new lease stipulations or modify existing stipulations. New or modified stipulations will be based on the best available information and science, developed by the field office with district office input and reviewed by the Interdisciplinary Stipulation Committee responsible for addressing consistence across BLM lands.

3. Program-Specific Guidance

The IDPR Team will review parcels in light of current applicable laws, regulations, and policy. Existing or future policy may identify additional criteria that must be considered in the parcel review process such as areas that will remain unleased until future planning efforts can address identified resource conflicts. For example, existing policy in CO IM No. 2010-028 requires parcel deferral from leasing within priority habitat for Greater Sage Grouse until planning efforts to address the resource concerns are completed. The field office reviews each parcel to determine if priority habitat exists.

4. Other Considerations

As identified in WO IM No. 2010-117, additional factors the IDPR Team will consider include:

- Risk of un-leased federal minerals being drained as a result of nearby non-federal oil and gas development.
- In undeveloped areas, non-mineral resource values that may be greater than potential mineral development values.
- Stipulation constraints on existing leases in the area that may make access and development of new leases infeasible.
- Nominated parcel configurations that would lead to unacceptable impacts to resources on the parcels.
- Topographic, soil and hydrologic properties of the surface that will not allow successful final landform restoration and re-vegetation in conformance with the Gold Book.
- Construction and use of new access roads would have unacceptable impacts to important resource values.
- Unacceptable impacts to National Park Service lands or national wildlife refuge resources.
- Unacceptable impacts to specially-designated areas that would be incompatible with the purpose of the designation.

5. Site Visits

The IDPR Team, a subset of the team or qualified BLM staff conducting work-related field visits, may conduct site visits for nominated parcels as described in WO IM No. 2010-117 and CO IM

No. 2010-030. The BLM may conduct site visits to validate existing information or gather new information (for example, wilderness-characteristic inventories), when necessary.

Site-visits inform the lease sale review process by helping to:

- validate existing data,
- gather new information,
- identify split estate access issues, and;
- evaluate the adequacy of associated stipulations in the RMP
- provide public participation if possible.

Site visits are highly recommended in areas with new interest in oil and gas development or where limited information is available. If a field office is contacted by a member of the public asking to attend a site visit, the BLM will try to accommodate the request when schedules, workload, logistics or other factors allow. Any input gained from the public during site visits will be incorporated, as appropriate, into the NEPA document.

For a lease parcel that is difficult to access due to remoteness, adverse weather conditions, private surface or other factors, it is sufficient to conduct the visit from a nearby vantage point or to use remote sensing data. If there is a high level of confidence in the data already available to the BLM, a site visit may not be necessary to evaluate a parcel. The BLM will document whether a site visit occurred, or why a visit did not occur. This documentation will become part of the NEPA administrative record. When site visits are conducted, photographic evidence and all other pertinent information will be collected and included in the NEPA administrative record as well. Leasing reform site visits are not a substitute for acquiring site-specific cultural or wildlife data gathered during the permit approval process.

6. Stakeholder Coordination

During the preliminary parcel review, the IDPR Team will begin to coordinate with and consult with stakeholders that may be affected by the BLM's leasing decisions on the parcel review and NEPA analysis to achieve greater coordination and communication in managing shared landscapes. These stakeholders may include:

- Other federal agencies (e.g., U.S. Forest Service, National Park Service, U.S. Fish and Wildlife Service, Bureau of Reclamation, Department of Defense, etc.)
- Adjacent BLM states if the lease nomination spans state boundaries
- Tribal governments
- State and local agencies/governments
- Local community stakeholders (e.g., managers of municipal watersheds and local parks)

The field office will also notify split-estate owners by certified mail that the oil and gas mineral estate under their surface estate has been nominated for leasing.

7. Public Scoping

The public has three opportunities to provide input to leasing, the 30 day scoping period, the 30 day EA review, and finally the 30 day protest period. Following the above preliminary review, the field office will coordinate with the state office to post the nominated parcels with preliminary recommendations and stipulations for a 30-day public scoping period. Stipulation summaries, GIS shapefiles, and maps are also provided. The scoping period is not a requirement of Leasing Reform but allows the public an opportunity to provide issues or concerns they would like considered in the NEPA analysis. The scoping period is announced as part of the Public Comment Calendar available on the BLM Colorado Oil and Gas Leasing webpage.

NEPA Compliance

BLM Colorado uses a three-tier structure to prepare and review oil and gas pre-leasing NEPA documents. A field office IDPR Team develops the pre-leasing NEPA analysis; the district office performs a quality control review of the NEPA analysis and related documents; and the state office performs a final review of the NEPA analysis and related documents. An oil and gas leasing EA template was finalized in July 2013 (CO IM No. 2013-030), which all field offices are directed to use. The template was created to increase comprehension by the public and reviewers and will be updated with improvements as needed.

Each IDPR Team will perform the necessary NEPA analysis and documentation for all lease sale parcels determined available for leasing following the preliminary parcel review. This analysis will typically take the form of an EA or a Documentation of NEPA Adequacy (DNA), which will be tiered to the applicable RMP/Environmental Impact Statement (EIS) or other programmatic analysis such as a Master Leasing Plan. The EA or DNA will incorporate appropriate information gained through the lease parcel review process, including any public comment and site-visits. The EA will be in compliance with NEPA Handbook H1790-1.

Each EA will typically be structured with the following range of alternatives as appropriate:

- No Action Alternative - No Leasing
- Proposed Alternative - Lease All Nominated Parcels in conformance with the RMP
- Preferred Alternative - Lease appropriate parcels based on NEPA analysis and public input.

Through the NEPA analysis, the IDPR team will consider unresolved resource conflicts and consider options for addressing these issues. Unresolved resource conflicts may include those resource concerns not adequately addressed in the existing RMP or new information that must be considered in future analysis.

The analysis of these alternatives is meant to allow the Field or District Manager to make a recommendation to the State Director that could include:

- Offering the parcels in conformance with the land use plan.
- Deferring a lease parcel, in whole or in part, pending further evaluation of specified issues.

- Withdrawing parcels from a lease sale where there is an ongoing RMP analysis and leasing those parcels would preclude a potential RMP decision.

Other Laws and Policy

BLM Colorado will comply with the Endangered Species Act (ESA), National Historic Preservation Act (NHPA), and General Procedural Guidance for Native American Consultation requirements for lease issuance, and will attach, at a minimum, the standard ESA and NHPA lease stipulations/notices to any lease offered for sale.

Public Comment and Review of the Preliminary EA

The second public participation opportunity will be when the field office announces the availability of the preliminary EA for any proposed parcels being considered. This announcement may be made via a press release issued to local media and constituent groups, as well as being posted on the state and field office's websites. Each office will provide a 30-day public review and comment period on the preliminary EA and unsigned Finding of No Significant Impact (FONSI). Proposed lease schedules for each sale can be found in the Public Comment Calendar on the BLM Colorado Oil and Gas Leasing webpage.

Any parcels identified by the field office with potential significant impacts as a result of leasing will also be documented at this time. If significant impacts will likely occur, the field office may recommend that the parcel be withheld from leasing and initiate an EIS to address site-specific issues. The BLM will respond to public comments in the EA as appropriate.

Leasing Recommendation

After considering public comments received on the preliminary EA/FONSI, the field office will finalize the EA/FONSI and prepare an unsigned Decision Record (DR) providing their recommendations to the District and State Office.

- Offering a lease parcel with standard stipulations only.
- Offering a lease parcel with new or modified stipulations (may require a plan amendment).
- Offering a lease parcel with proposed modified parcel boundaries.
- Not offering a lease parcel, in whole or in part, pending further evaluation of specified issues.
- Withholding a lease parcel from being offered for sale in an area that is already closed to leasing in the existing RMP along with the appropriate justification.
- Withholding a lease parcel from being offered for sale, in whole or in part, along with appropriate justification.
- Withholding a lease parcel from being offered for sale, in whole or in part, and initiating a plan amendment to close the area to future leasing along with appropriate justification.

Public Notification of Lease Sale

The BLM CSO leasing staff consolidates the parcel lists from each office involved in a quarterly lease sale and verifies the parcel descriptions to be included in the final competitive sale notice. The final sale notice provides all necessary information to prospective bidders including legal descriptions and lease stipulations for each parcel.

The final sale notice will be posted on the BLM Colorado Oil and Gas Leasing webpage 90 days prior to the sale date and the CSO will issue a statewide press release to the media, congressional contacts and constituent groups. This will coincide with the posting of the updated EA/FONSI.

Lease Sale Parcel Protests

A 30-day lease sale protest period will begin the day the sale notice is posted. Only the final parcels included in the competitive sale notice may be protested. BLM Colorado will attempt to resolve all protests before the sale; however, parcels with unresolved protests may still be offered at the sale. Protest issues are reviewed at the CSO and Regional Solicitor and responses are developed. Protests may result in changes to the final decision or NEPA analysis as warranted. The BLM Colorado Deputy State Director for Energy, Lands, and Minerals will sign the protest decision letter.

Sale Day

The BLM Colorado Deputy State Director for Energy, Lands, and Minerals will sign the leasing FONSI and DR, (or Record of Decision for an EIS) which are then posted on the BLM Colorado Oil and Gas Leasing webpage the day before the sale. The sale is open to the public and is conducted by oral auction. The winning bid is the highest verbal bid equal to or exceeding the national minimum acceptable bid of \$2 per acre.

Lease Issuance

Leases are issued within 60 days after the sale or when protests have been resolved. The Chief for Fluid Minerals Adjudication will authorize and issue leases sold at the auction.

Other Issues

Consideration of Ongoing Planning Efforts

BLM field offices operate under their existing RMP until an RMP revision is complete with a signed Record of Decision. Parcels will be reviewed for conformance with the existing RMP. State Directors have discretion to not offer specific tracts of land based on information under review during planning (WO IM 2004-10, Change 1). A decision to not offer a parcel could include lands that are designated in the preferred alternative of draft or final RMP revisions or

amendments as:

- lands closed to leasing;
- lands open to leasing under no surface occupancy;
- lands open to leasing under seasonal or other constraints with an emphasis on wildlife concerns; or
- other potentially restricted lands.

CEQ regulations state that no action would be taken prior to a Record of Decision that would have an adverse environmental impact or would limit the choice of reasonable alternatives (40 CFR 1506.1). BLM Colorado must consider these potential impacts and limitations through the NEPA analysis in the lease sale EA. If the analysis of the proposed alternative identifies unacceptable adverse impacts or a limitation on planning alternatives from the proposed lease, the BLM may analyze a preferred alternative deferring the parcel until the RMP or programmatic analysis is complete.

Parcels Held Pending Further Review

The State Director has the authority to not offer parcels based on field office and district office recommendations. Additional analysis and further review will determine whether to recommend the parcels for future leasing.