

**EASTERN STATES**  
**Bureau of Land Management**  
**Decision Record**  
**Environmental Assessment**  
**Expressions of Interest #2183-#2190**  
**DOI-BLM-ES-0030-2015-0007-EA**

**Introduction**

The proposed action is to issue leases for seven (7) parcels for potential oil and gas development within Allegan County, Michigan. The parcels cover approximately 440 acres of federal mineral estate administered by the Bureau of Land Management (BLM). Parcels associated with EOI numbers 2183, 2184, 2185, 2186, 2187, 2188, and 2189 contain 50 percent federally-owned mineral interest. The remaining 50 percent of the mineral rights on these parcels would require a separate lease with the private surface owner. The parcel under EOI-2190 was removed from nomination pending a determination of Federal mineral ownership. The BLM will offer the parcels for sale at the March 17, 2016 BLM Competitive Oil and Gas Lease Sale (the parcels were initially scheduled for the December 10, 2015 sale but the sale was postponed). The proposed action is analyzed in the Northeastern States District Office EA: DOI-BLM-ES-0030-2015-0007-EA.

The purpose of the proposed action is to support the development of oil and natural gas resources that are essential to meeting the nation's future needs for energy. It is the policy of the BLM as mandated by various laws, including the Mineral Leasing Act of 1920, as amended (30 United States Code [USC] 181 et seq.), the Federal Land Policy and Management Act of 1976 (FLPMA), and the Energy Policy Act of 2005 to make mineral resources available for development to meet national, regional, and local needs. The oil and gas leasing program managed by the BLM encourages the sustainable development of domestic oil and gas reserves which reduces the dependence of the United States on foreign sources of energy as part of its multiple-use and sustainable yield mandate.

**Decision**

As a result of the analysis presented in the EA, it is my decision to select the proposed action as described above. A Finding of No Significant Impact (FONSI) supports this decision and has been prepared separately. The proposed action coupled with lease stipulations, best management practices, and lease notices detailed in the EA and attached to this Decision Record have led to my decision that all practicable means to avoid or minimize environmental harm have been adopted and that unnecessary or undue degradation of public lands and resources would not result from implementation of the proposed action. A no action alternative was considered, in which leases would not be issued; however, this alternative was not selected because it does not meet the purpose of and need for the proposed action.

**Plan Conformance and Consistency**

I have determined that the proposed action is consistent with the applicable plans and policies of county, state, tribal, and federal agencies. The proposed action is not covered by a BLM Resource Management Plan, and thus, in accordance with 43 Code of Federal Regulations (CFR) §1610.8(b)(1) the leasing EA serves as the basis for this decision.

**Compliance with Major Laws**

The proposed decision complies with all applicable laws, regulations, executive orders, and policies including but not limited to the following:

- National Environmental Policy Act (1969) and the associated Council on Environmental Quality regulations at 40 CFR Parts 1500-1508

- FLPMA (1976) as amended and the associated regulations at 43 CFR Part 1600
- Mineral Leasing Act (1920) as amended and the associated regulations at 43 CFR Part 3100
- Clean Water Act (1977)
- Clean Air Act (1970) as amended
- National Historic Preservation Act (NHPA) (1966) as amended and the associated regulations at 36 CFR Part 800
- Endangered Species Act (ESA) (1973) as amended
- Migratory Bird Treaty Act (1918)
- Resource Conservation and Recovery Act (RCRA) (1976) as amended
- Executive Order 11988- Floodplain Management
- Executive Order 119900 – Protection of Wetlands
- Executive Order 12898 – Environmental Justice in Minority Populations and Low-Income Populations
- Oil and Gas Leasing Reform – Land Use Planning and Lease Parcel Reviews (BLM WO IM 2010-117)

### **Public Comments**

The BLM posted EA DOI-BLM-ES-0030-2015-0007-EA for a 30-day public review period ending on August 20, 2015. One comment letter was received from the surface owner of the parcel nominated under EOI-2186 indicating oil and gas operations on the surface of his land would disrupt his blueberry farming operations. To address this concern, a No Surface Occupancy (NSO) stipulation was added to the lease sale notice for EOI-2186. A 30-day protest period was held beginning on the day the lease sale notice was posted, and no protests were received.

### **Consultation and Coordination**

The BLM conducted external scoping with the Michigan Department of Natural Resources and the Allegan State Game Area for leasing in the same vicinity within the last five years. Issues of concern were related to potential impacts to wildlife habitat by spreading of invasive weeds and potential impacts on trout streams and designated Natural Rivers.

The BLM submitted a biological assessment to the United States Fish and Wildlife Service (USFWS) in compliance with the Endangered Species Act, Section 7 Consultation requirements on January 23, 2015. The USFWS responded to BLM on May 13, 2015 regarding best management practices for the proposed action to avoid impacts to endangered species that may potentially occur in the project area. BLM completed Section 106 consultation with the Michigan State Historic Preservation Office (SHPO). Letters were sent to five federally recognized tribes on February 2, 2015, who have a known connection to the project area. The BLM received one response, from the Bay Mills Indian Community, stating that while they know of potential cultural resources within the general area of the proposed action, they require additional time to complete an in-house records and literature search.

### **Rationale for the Decision**

The decision to approve the preferred alternative, offering the parcels for competitive sale and lease, is based on the following:

- National policy – it is the policy of BLM as derived from the Mineral Leasing Act of 1920, as amended and the Federal Land Policy Management Act of 1976, to encourage development of

mineral resources to meet national, regional, and local needs. As such, leasing the parcels under the preferred alternative meets the purpose of and need for action.

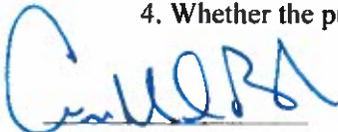
- Agency statutory requirements – the decision is consistent with all required federal, state, tribal and county regulations and policies for implementation of the proposed action.
- Relevant resource issues and finding of no significant impact – as described in the EA, there would be no direct impacts associated with leasing. There is the potential for minor adverse impacts to resources as a result of potential future oil and gas development, however, none of the potential direct, indirect, or cumulative impacts were identified as significant and a FONSI was prepared. Therefore, an environmental impact statement is not required. Additional site-specific NEPA documentation would be completed at the application for permit to drill (APD) stage, should future oil and gas development occur. All required consultation for offering parcels under ESA and NHPA, have been completed.
- Application of measures to minimize environmental impacts – standard terms and conditions as well as best management practices and tailored stipulations, as identified in the EA would apply.

### Appeal Procedures

This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (Attn: Authorized Officer, BLM Eastern States Office, 20 M Street, SE, Washington, DC 20003) within 30 days from your receipt of this decision. 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 the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay 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 be submitted to each party named in this decision, to the Interior Board of Land Appeals, and to the appropriate Office of the Solicitor (see 43 CFR Section 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. 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 protestor'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.



Ann DeBlasi  
Acting State Director  
Eastern States

3/14/16  
Date

## **8 APPENDIX B – Stipulations and Notices**

### **Notices**

1. Surface disturbance will be limited to that necessary for reasonable, safe and prudent extraction of the oil and gas. Measures will be implemented to minimize erosion and sedimentation. Road and stream crossings will be planned so as to eliminate stream crossings whenever practical.
2. Portions of this lease parcel have had occurrences of certain threatened, endangered, or sensitive species or communities. At the time a drilling permit application or other request for surface use is filed, a site-specific review will be done to determine potential effects to these species. Depending upon the findings of the site-specific review, additional operating constraints, such as seasonal restrictions or re-location of the proposed wellsite, may be necessary to mitigate effects to threatened, endangered, or sensitive species or communities.
3. A cultural resources Phase I survey will be required prior at the time an Application for Permit to Drill/Notice of Staking is submitted. Cultural Resource surveys may also be required prior to the start of subsequent well operations which involve additional surface disturbance. Mitigation measures or movement of planned ground disturbance may be necessary to avoid adverse effects to cultural resources. The need and requirements for mitigation or alterations will be based on consultation between the lessee, Bureau of Land Management, the Michigan State Historic Preservation Office, and the Advisory Council on Historic Preservation.
4. Any approved APD may require a Discovery Plan for accidental archaeological discoveries that occur during ground disturbing activities that were detected during initial surveys. This may include consultation between the Bureau of Land Management, Michigan State Historic Preservation Office, and the Advisory Council on Historic Properties.

**No Surface Occupancy Stipulation**

No surface occupancy will be permitted within 300 feet of a navigable waterway.

Purpose: Protect surface water quality.

Exception: The BLM may grant exceptions for use of existing roadways and utility rights-of-way. Exceptions must be made in writing by the BLM.

Waiver/modification: No waivers or modifications will be made to this stipulation.

**Controlled Surface Use Stipulation**

No removal of trees of more than three (3) inches in diameter at breast height will be permitted.

Purpose: Avoiding impacts to Indiana and northern long-eared bats.

Exception: The BLM may grant an exception for removal of isolated trees that are determined unlikely to be used by bats for roosting or foraging.

Waiver: The BLM may waive this stipulation if it determined that the impacted area likely is not occupied by either Indiana bat or northern long-eared bat.

Modification: The BLM may grant a modification to this stipulation if it is determined that such a modification is not likely to adversely impact either Indiana bat or northern long-eared bat. Such modifications may include the following:

- Inclusion of an annual period during which trees may be removed,
- Increase of the minimum size of protected trees to five (5) inches if it determined that the impacted area is likely not occupied by northern long-eared bat.

**No Surface Occupancy Stipulation**

No surface occupancy will be permitted in habitat that may be occupied by eastern massasauga rattlesnake. Occupied habitat is defined as suitable habitat that has been determined to contain massasaugas or that has not been surveyed and shown likely not to contain the species. Survey protocol and definitions of occupied habitat are according to "The Eastern Massasauga Rattlesnake: A Handbook for Land Managers," available online at <http://www.fws.gov/midwest/endangered/reptiles/eama/index.html>.

Purpose: Avoiding impacts to the eastern massasauga rattlesnake.

Exception/waiver/modification: No exceptions, waivers, or modifications will be made to this stipulation.

**No Surface Occupancy Stipulation**

No surface occupancy will be permitted in open areas that contain wild lupine (*Lupinus perennis*). This includes the entire, contiguous, open, upland habitat that contains wild lupine. Since the project area contains no known populations of wild lupine, this stipulation is not expected to impact surface occupancy.

Purpose: Avoid impacts to endangered Karner blue butterfly.

Exception/waiver/modification: No exceptions, waivers, or modifications will be made to this stipulation.

**Controlled Surface Use Stipulation**

Surface occupancy on the entire lease is subject to the following:

Operator shall delineate, within area to be disturbed, infestations of non-native, invasive plant species, including any species that is listed in *A Field Identification Guide to Invasive Plants in Michigan's Natural Communities* (Borland, et al, 2009). Operator shall prepare an invasive species control plan for approval by the BLM. Guides to the use of recommended best management practices for controlling the spread of invasive plant species are available from the Michigan Natural Features Inventory at <http://mnfi.anr.msu.edu/>. Many of the same practices that are employed for preventing soil erosion also function to prevent the spread of invasive species.

Purpose: Protecting native vegetation communities, agricultural production, and timber resources.

Exception/modification/waiver: No exceptions, modifications, or waivers will be made to this stipulation.