EASTERN STATES
Bureau of Land Management
Decision Record
Environmental Assessment
ES-020-2012-21

Introduction

The proposed action is to issue leases for two (2) parcels for potential oil and gas development within Pope and Jackson counties, Arkansas. The parcels cover approximately 80 acres (approximately 40 acres each) of federal mineral estate administered by the Bureau of Land Management (BLM) underlying privately owned surface estate. 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 Southeastern States District Office EA: ES-020-2012-21.

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 43 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 ES-020-2012-21 for a 30-day public review period ending on August 20, 2015. The BLM did not receive any comments on the EA. 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 initiated informal consultation with the United States Fish and Wildlife Service (USFWS) on March 4, 2015 (EOI #1492) and January 15, 2015 (EOI #1791) in compliance with the Endangered Species Act (ESA), Section 7 consultation requirements. The USFWS provided a letter of concurrence on April 20, 2015 (EOI #1492) and March 6, 2015 (EOI #1791). Consultation with the Arkansas State Historic Preservation Office (SHPO) occurred on October 28, 2011 (EOI #1492) and February 17, 2015 (EOI #1791) and the BLM received letters of concurrence on December 5, 2011 (EOI #1492) and March 12, 2014 (EOI #1791). Letters were sent to various tribes on October 27, 2011 (EOI #1492) and February 17, 2015 (EOI #1791) notifying them of the proposed action and requesting comments or concerns. Comments were received from eight tribes stating that there are no known historical sites on the project sites and therefore they do not anticipate any cultural effects from the proposed leases.

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

Stipulations

Cultural Resources and Tribal Consultation

Stipulation: This lease may be found to contain historic properties and/or resources protected under the National Historic Preservation Act (NHPA), American Indian Religious Freedom Act, Native American Graves Protection and Repatriation Act, E.O. 13007, or other statutes and executive orders. The BLM will not approve any ground disturbing activities that may affect any such properties or resources until it completes its obligations under applicable requirements of the NHPA and other authorities. These obligations may include a requirement that you provide a cultural resources survey conducted by a professional archaeologist approved by the State Historic Preservation Office (SHPO). If currently unknown burial sites are discovered during development activities associated with this lease, these activities must cease immediately, applicable law on unknown burials will be followed and, if necessary, consultation with the appropriate tribe/group of federally recognized Native Americans will take place. The BLM may require modification to exploration or development proposals to protect such properties, or disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized or mitigated.

Endangered Species

Stipulation: The lease area may now or hereafter contain plants, animals, or their habitats determined to be threatened, endangered, or other special status species. BLM may recommend modifications to exploration and development proposals to further its conservation and management objective to avoid BLM-approved activity that will contribute to a need to list such a species or their habitat. BLM may require modifications to or disapprove proposed activity that is likely to result in jeopardy to the continued existence of a proposed or listed threatened or endangered species or result in the destruction or adverse modification of a designated or proposed critical habitat. BLM will not approve any ground-disturbing activity that may affect any such species or critical habitat until it completes its obligations under applicable requirements of the Endangered Species Act as amended, 16 U.S.C. ' 1531 et seq., including completion of any required procedure for conference or consultation.

Exception: None

Modification: None

Waiver: None

Sensitive Plant Species

Stipulation (CSU): All suitable special status plant species habitat will be identified during environmental review of any proposed surface use activity. If field examination indicates that habitat of one or more of these species is present, the BLM will require a survey by a qualified botanist for special status plants during periods appropriate to each species. Operations will not be allowed in areas where sensitive plants would be affected.

Objective: To protect threatened, endangered, candidate, proposed, and BLM sensitive plant species.

Exception: An exception may be granted if the operator agrees to implement measures developed in consultation with USFWS and in coordination with State agencies.
Modification: The stipulation may be modified if it is determined that a portion of the lease area does not contain sensitive plant species habitat.

Waiver: The stipulation may be waived if, based on field surveys, it is determined that the lease area does not contain sensitive plant species habitat.

Freshwater Aquatic Habitat

Stipulation (NSO): No surface occupancy or disturbance, including discharges, are permitted within 250 feet of a river, stream, wetland spring, headwater, wet meadow, wet pine savanna, pond, tributary, lake, coastal slough, sand bar, vernal pools, calcareous seepage marsh, or small, marshy calcareous stream. If the slope exceeds 10 percent, the buffer may be extended to 600 feet to provide adequate protection for aquatic habitats and associated species.

Objective: To protect the water quality of watersheds and natural stream substrate and morphology and to avoid potential impacts to aquatic species and their habitat.

Exception: An exception may be granted if the operator agrees to 1) span creeks, rivers, wetlands, and floodplains by attaching pipelines to bridges; 2) directionally drill wells and pipelines from upland sites under creeks, rivers, other waters, and wetlands or3) implement other measures developed in consultation with USFWS and in coordination with State agencies.

Modification: The buffer may be reduced if the adjacent waterway has been surveyed for 100 yards upstream and 300 yards downstream of the site, and the results document the lack of suitable/occupied/critical habitat for listed species which may be affected by the project, as determined by the BLM and USFWS.

Waiver: None

Lease Notices/Best Management Practices

Migratory Birds and Federally Listed Wildlife

Objective: To protect perch and roosting sites and terrestrial habitats for and to avoid potential impacts to migratory birds and federally listed wildlife.

Any reserve pit that is not closed within 10 days after a well is completed and that contains water must be netted or covered with floating balls, or another method must be used to exclude migratory birds.

All powerlines must be built to protect raptors and other migratory birds, including bald eagles, from accidental electrocution, using methods detailed by the Avian Power Line Interaction Committee (APLIC 2006)

Perching and Nesting Birds and Bats

Objective: To prevent birds and bats from entering or nesting in or on open vent stack equipment.

Open vent stack equipment, such as heater-treaters, separators, and dehydrator units, will be designed and constructed to prevent birds and bats from entering or nesting in or on such units and, to the extent practical, to discourage birds from perching on the stacks. Installing cone-shaped mesh covers on all open vents is one suggested method. Flat mesh covers are not expected to discourage perching and will not be acceptable.

Invasive and Non-Native Species

Objective: To discourage the spread of invasive, non-native plants.

Use of native or non-invasive plants in seeding mixtures will be encouraged to stabilize disturbed areas and during restoration activities. Construction sites will be surveyed for invasive species prior to ground disturbance. If invasive species are found, the proper control measures will be used to either eradicate the species from the area or minimize its spread to other areas. If cogongrass is found on site, equipment will be washed before exiting the site to prevent the spread of this highly invasive species to other locations. Post-construction monitoring for cogongrass and other invasive plant species should be conducted to ensure early detection control. In the case of split-estate lands, final seed mixtures will be formulated in consultation with the private landowner.

Pesticide Application

Objective: To protect the water quality of watersheds and natural stream substrate and morphology supporting special status species and their host species.

Any ground application of herbicides or other pesticides, sterilants, or adjuvants within 150 feet of listed species or habitat will require site-specific control measures developed in coordination or formal consultation with USFWS. No aerial application of herbicides or pesticides will be permitted.