

**U.S. Department of the Interior
Bureau of Land Management
Miles City Field Office
111 Garryowen Road
Miles City, MT 59301**

**Decision Record and Leasing Recommendation for Suspended Leases
Environmental Assessment DOI-BLM-MT-C020-2010-0249-EA**

Decision:

It is my decision to implement Alternative B (the Proposed Action) as identified in the Miles City Field Office (FO) Oil and Gas Leasing Environmental Assessment (EA), DOI-BLM-MT-C020-2010-0249-EA, in which suspensions would be lifted on 23 leases (10,782.74 acres of federal minerals administered by BLM) and one (1) lease (840 acres of federal minerals) would remain in suspension. This decision only addresses the suspended lease parcels. The decision to offer and issue lease parcels is addressed in a separate decision record.

Authorities:

The authority for this decision is contained in 43 CFR 3100.

Compliance and Monitoring:

No monitoring would be required upon lifting the lease suspensions. Should the leases be developed, monitoring may be required and would be addressed and analyzed under future NEPA documentation.

Terms, Conditions, and Stipulations:

For all parcels, standard terms and conditions, as well as the lease notices and stipulations identified by parcel in Appendix A of the EA, would apply and be attached to the lease(s).

Plan Conformance and Consistency:

The proposed action and alternatives have been reviewed and found to be in conformance with the land use decisions described in the Big Dry Resource Management Plan (RMP) and accompanying Environmental Impact Statement (EIS) (April 1996) and the Powder River RMP/EIS (March 1985), as amended (1994 Oil and Gas RMP/EIS Amendment; 2003 Final Statewide Oil and Gas EIS and proposed Amendment of the Powder River and Billings RMPs; and the 2008 Final Supplement to the Montana Statewide Oil and Gas EIS and Proposed Amendment of the Powder River and Billings RMPs).

Alternatives Considered:

Alternative A – No Action. The No Action Alternative would maintain lease suspensions on 24 leases, which would be subject to cancellation. The No Action Alternative also addressed excluding 107 lease parcels from the lease sale. Surface management would remain the same

and ongoing oil and gas development would continue on surrounding federal, private, and state leases.

Alternative B – Proposed Action. The Proposed Action would be to lift suspensions on 23 leases and to maintain one (1) lease in suspension. The leases are located within the Miles City FO and are dispersed across the following counties: Roosevelt, Richland, Rosebud, Powder River, Fallon, Garfield, Custer, and Sheridan counties. Standard terms and conditions, as well as additional stipulations identified in Appendix A of the EA would apply. The proposed action also addressed 82 lease parcels that would be offered and issued for lease, in whole or part, and to defer 25 lease parcels from the upcoming lease sale.

Public Comments:

On August 12, 2010, this EA, along with seven other oil and gas leasing EAs in Montana/Dakotas, were made available for a 30-day public comment period. A total of 131 written submissions were received after the 30-day comment period, which resulted in 79 individually-coded substantive comments. With the exception of some parcel-specific and/or EA-specific comments and issues, most of the comments applied to all eight EAs. After review and consideration of the substantive comments, some modifications were made to the analysis and are denoted with gray-scale shading and/or strikeout in the updated EA. Refer to Chapter 5 of the updated EA for a summary of substantive comments and changes made to the EA.

On October 22, 2010, the Bureau of Land Management provided notice that 223 parcels of land (149,996.962 acres) would be offered in a competitive oil and gas lease sale on December 9, 2010; this lease sale notice initiated a 30-day protest period for the lease sale. Two protests were received. The first protest was submitted by Crowley Fleck Attorneys to the inclusion of Parcel Number 12-10-27, located within the Butte Field Office, which was deferred from the lease sale to allow for further review. The second protest was submitted by the Montana Environmental Information Center, Earthworks' Oil and Gas Accountability Project, and WildEarth Guardians and protested the inclusion of all 223 parcels in the lease sale. Based on a detailed review and consideration of the issues raised, the BLM provided responses to the issues raised and denied the protest to the parcels offered at the December 9, 2010 oil and gas lease sale.

Rationale for the Decision:

The decision to approve Alternative B, the proposed action, is based on the following: 1) consistency with resource management and land use plans; 2) national policy; 3) agency statutory requirements; 4) relevant resource issues; and 5) application of measures to avoid or minimize environmental impacts. Alternative B has been chosen as the preferred alternative.

1. The decision is in conformance with the Big Dry RMP and accompanying EIS (April 1996) and the Powder River RMP/EIS (March 1985), as amended (1994 Oil and Gas RMP/EIS Amendment; 2003 Final Statewide Oil and Gas EIS and proposed Amendment of the Powder River and Billings RMPs; and the 2008 Final Supplement to the Montana Statewide Oil and Gas EIS and Proposed Amendment of the Powder River and Billings RMPs).

2. It is the policy of the Bureau of Land Management (BLM) as derived from various laws, including the Mineral Leasing Act of 1920, as amended [30 U.S.C. 181 *et seq.*] and the Federal Land Policy and Management Act of 1976, to make mineral resources available for disposal and to encourage development of mineral resources to meet national, regional, and local needs.
3. The decision is consistent with all federal, state, and county authorizing actions required for implementation of the Proposed Action.
4. Standard terms and conditions as well as special stipulations would apply. Lease stipulations (as required by Title 43 Code of Federal Regulations 3101.1-3) were added to each parcel as identified by the Miles City FO to address site specific resource concerns or new information not identified in the planning process.

Administrative Review and Appeal:

This decision shall take effect immediately upon the date it is signed by the authorized officer. This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and Form 1842-1. If an appeal is taken, the Notice of Appeal must be filed in the Montana State Office, 5001 Southgate Drive, Billings MT, 59101, within 30 days from this decision. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition (pursuant to regulations at 43 CFR Part 4, Subpart B § 4.21)) 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 following standards listed below. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall be evaluated based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant's success on the merits;
- (3) The likelihood of irreparable harm to the appellant or resources if the stay is not granted;
and
- (4) Whether the public interest favors granting the stay.

Copies of the Notice of Appeal, Petition for Stay, and any statement of reasons, written arguments or briefs must also be submitted to each party named in this Decision and to the Office of the Solicitor, U.S. Department of the Interior, P.O. Box 31394, Billings, Montana 59107-1394, in accordance with Form 1842-1, at the same time the original documents are filed

in this office. A copy of the notice of appeal, any statement of reasons and all pertinent documents must be served on each adverse party, as listed below.

Before including your phone number, e-mail address, or other personal identifying information in your appeal, you should be aware that your entire appeal, including your personal identifying information, may be made publicly available at any time. While you can ask us in your appeal to withhold your personal identifying information from public view, we cannot guarantee that we will be able to do so.

In case of an appeal, the adverse parties to be served are:

EMPIRE OIL CO	PO BOX 1835, WILLISTON ND 58802
ENDEAVOUR OPERATING CORP,	1001 FANNIN STREET #1600, HOUSTON TX 77002-6799
GULF WESTERN GEOPHYSICAL LLC	7373 BROADWAY #300, SAN ANTONIO TX 78209
MARSHALL & WINSTON INC	PO BOX 50880, MIDLAND TX 79710-0880
NISKU ROYALTY LP	PO BOX 2293, BILLINGS MT 59103-2293
OASIS PETROLEUM N.AMERICA LLC	1001 FANNIN STREET #202, HOUSTON TX 77002-6712
PRESCO INC	10200 GROGAN'S MILL RD #520, THE WOODLANDS TX 77380
RETAMCO OPERATING INC	PO BOX 790, REDLODGE MT 59068-0790
TETON RESOURCES USA LLC	PO BOX 183, BILLINGS MT 59103
XTO ENERGY INC	810 HOUSTON STREET #2000, FORTH WORTH TX 76102-6298

Recommended by:



Deborah K. Johnson, Field Manager
December 27, 2010

Concurrence by:



M. Elaine Raper, District Manager
December 27, 2010

Approved by:



Theresa M. Hanley, Deputy State Director, Division of Resources
December 27, 2010