

# H-3101-1 Issuance of Leases — Lease Stipulations



Bureau of Land Management  
Montana State Office Handbook

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# H-3101-1 — ISSUANCE OF LEASES

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### I. Oil and Gas Lease Stipulations.

#### A. Scope of Oil and Gas Lease Stipulations.

1. All oil and gas mineral estates subject to leasing, whether private or federal surface ownership (Code of Federal Regulations (CFR) Title 43 Part 3101.1-2 and the Secretarial Decision, The Montana Power Company, A-30310, 72 I.D. 518, of December 3, 1965), are subject to the lease terms (see Illustration 1), and any Bureau of Land Management (BLM) or other agency, special surface use stipulations (Montana State Office (MSO) Forms MT-3109-2, -3, -4, Illustrations 2-7), recommended by the district office (DO) or other agencies. Other agencies provide or request stipulations on their appropriate forms, but are encouraged to use our forms and related guidance.

2. The BLM and other Department of the Interior special stipulations are appealable before lease issuance by the prospective lessee or other parties to the Interior Board of Land Appeals (IBLA). The IBLA will normally uphold our stipulations (James M. Chudnow, 69 IBLA 16 (1982),) provided that each is "necessary and justifiable" as defined below:

a. **Necessary:** The stipulation is necessary if it does not duplicate existing laws, regulations, lease terms (especially page 2, point 6 of the lease terms), Onshore Oil and Gas Orders or Notices to Lessees.

b. **Justifiable:** A stipulation is justifiable if there are resources, values, uses and/or users identified on the oil and gas lease parcel that, in the absence of such stipulations, cannot coexist with oil and gas operators, or cannot be adequately managed and/or accommodated on other lands during the oil and gas operation. Justifiable stipulations are identified during resource management planning and as described in Bureau planning documents.

3. Special stipulations by a non-Department of the Interior Surface Management Agency (SMA) may be appealed by the prospective lessee through the administrative remedies of that agency (43 CFR 3101.7-3).

### B. Use of the Least Restrictive Stipulations Necessary.

1. All federal mineral estates, unless withdrawn from the functioning of the Mineral Leasing Act, are potentially available for oil and gas leasing (Bureau Mineral Policy Statement, May 29, 1984). Our decisions on whether to lease, and under what requirements, will be made in land use planning documents and associated National Environmental Policy Act (NEPA) documentation. The MSO recognizes that in most cases oil and gas exploration and production activity is compatible, or can be made compatible, with many other surface resources and uses (Bureau Mineral Policy Statement, May 29, 1984).

2. We will utilize the least restrictive stipulations needed to achieve other resource protection goals (i.e., it is better to lease with no surface occupancy (NSO) than not to lease at all, and it is better to have timing restrictions rather than an NSO lease, etc.) per IBLA Decisions Robert G. Lynn, 76 IBLA 383; Western Interstate Energy, Inc., 71 IBLA 19; and the Bureau's Mineral Policy Statement, May 29, 1984.

3. After analyzing the relative resource values, there are values, uses, and/or users identified that conflict with oil and gas operations and cannot be adequately managed and/or accommodated on other lands, a lease stipulation may be necessary unless it is determined that the dominant use will be mineral development. Land use plans serve as the primary vehicle for making leasing decisions and determining the necessity and justifications for lease stipulations (BLM Manual 1624 and 3101). Documentation of the necessity for a stipulation is disclosed in planning documents. Land use plans and/or NEPA documents also establish the guidelines by which future stipulation changes (waivers, exceptions, or modifications) may be granted. Substantial stipulation changes (waivers, exceptions, or modifications) are subject to public review for at least a 30-day period in accordance with Section 5102.f of the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (FOOGLRA) as codified in 43 CFR 3101.1-4. The land use plan should make determinations, to the extent possible, of those changes requiring a 30-day public review.

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4. Stipulations may be necessary if the authority to control the activity on the lease does not already exist under laws, regulations, or orders. It is important to recognize that the authorized officer has the authority to modify the siting and design of facilities (e.g., requiring specialized trash disposal, particular types of facilities, requiring or not allowing on-site camps, no-dogs requirements, mufflers, etc.), control the rate of development and timing of activities, as well as require other mitigation under Sections 2 and 6 of the standard lease terms (BLM Form 3100-11) and 43 CFR 3101.1-2. Relocation of not more than 200 meters, or the prohibition of new surface disturbance for not more than 60 days are generally consistent with lease rights. Agency imposed measures exceeding these thresholds require justification to demonstrate reasonableness and should be identified as special stipulations to the lease through resource management planning. Additional mitigation measures not addressed in the lease stipulations may be added at the time operations are proposed in accordance with 43 CFR 3101.1-2 if they are consistent with the RMP for the area. These conditions of approval are appealable at the time they are imposed.

5. The necessity and justification for lease stipulations are also documented in the lease file record by referencing the appropriate land use plan or other leasing analysis document. The necessity for exceptions, waivers, or modifications will also be documented in the lease file record through reference to the appropriate plan or other analysis.

6. Standard or generic stipulations (such as the obsolete MSO MT-3109-1), will not be utilized as future resource management plan/environmental impact statement (RMP/EIS), or oil and gas plan amendments are completed. Stipulations on leases will relate to specific resource values, uses, users, and generally will be based on decisions made in relevant planning documents.

### C. Procedures for Oil and Gas Leasing in Areas Meeting the Supplemental Program Guidance (SPG) 1624.2 Guidelines.

1. In areas meeting the SPG 1624.2 guidance, leases will generally be issued with either:

a. Standard terms only (Sections 2 and 6 of the lease form, Form 3100-11), or

- b. An NSO stipulation (MT-3109-2), or
- c. A timing restriction stipulation (MT-3109-3), or
- d. A controlled surface use stipulation (MT-3109-4), or
- e. Lease notices as appropriate, or
- f. Some combination of the above items.

2. Computerized stipulation data bases will be completed by the field offices upon completion of each RMP/SPG, and will be kept current by the field offices through plan maintenance, amendment or revision.

3. The DOs will identify, in the data base, areas where further field office review is necessary before leasing.

4. As parcels are identified for lease issuance, the MSO will attach stipulations to the parcels by using the computerized stipulation data bases.

5. For areas where field office review is necessary, the MSO will send the parcels to the field offices via memorandum/reply form.

6. Field offices will respond via memorandum/reply form with appropriate stipulation recommendations and update the data base.

### D. Procedures for Oil and Gas Leasing in Areas Not Meeting the SPG 1624.2 Guidelines.

1. In these areas the following forms will continue to be utilized until SPG 1624.2 compliance is achieved:

- a. The Standard Stipulation (Form MT-3109-1) (automatically attached to all leases in areas not meeting the SPG 1624.2 standard), or
- b. A Surface Occupancy, Timing, or Controlled Use Stipulation using the MT-3109 forms, or
- c. Lease notices, or
- d. Some combination of the above items.

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2. All oil and gas lease parcels will be transmitted to the field offices for stipulation recommendations to the MSO via a memo/reply form memorandum.

3. The DOs (or Great Falls RA) will respond on the memo/reply form with appropriate recommendations and stipulations. In areas not meeting the SPG 1624.2 guidance, additional NEPA analysis and documentation may be required.

4. The MSO will comply with any outstanding protest decisions, etc., in determining if parcels will be offered. These decisions may be based on the type of stipulations the DO develops for these parcels.

### E. Coordination with Other Surface Managing Agencies (SMA) and Private Surface Owners.

1. Pursuant to the Memoranda of Agreement with the Bureau of Reclamation (BOR) and the Department of Defense (DOD), the BLM is the lead agency responsible for ensuring NEPA compliance prior to lease issuance. The MSO operates under agreements for mineral leasing with the BOR in Billings, Montana, and the Corps of Engineers in Omaha, Nebraska, whereby they provide us with their special stipulations for oil and gas leasing, and rely on our programmatic leasing Environmental Assessments (EAs) or RMP/EISs for NEPA documentation. Except in unusual circumstances, the DOs are not involved in this process. In cases where no agreement exists between the MSO and any other agency, the lease proposal is sent to the DOs for development of NEPA documentation and stipulations in conjunction with the other SMA. This will normally occur for the following agencies:

#### Department of Defense

Corps of Engineers, Seattle, Washington (Libby Dam)

Air Force Base (Malmstrom, Ellsworth, Minot)

Army Installations

Navy Installations

#### Bureau of Reclamation, Boise, Idaho (Pacific Northwest Region)

2. In these cases, the DO is responsible for coordinating with the involved SMA and ensuring NEPA compliance. Districts should advise other SMAs on our policy of using the least restrictive stipulation

available that still protects other involved resources. The DO NEPA documentation will be tiered to the relevant Bureau's planning document and should normally be completed within 30 days of receipt of the MSO transmittal memorandum.

3. On other SMA acquired lands, the SMA has full lease concurrence and stipulation authority, 43 CFR 3101.7-1(a) and Robert G. Lynn, 72 IBLA 355 (1983). On public domain lands, the SMA stipulations are recommendations that are followed by the MSO in all but extraordinary situations. If we do not follow the other agency recommendations on public domain lands, we are required to do our own NEPA analyses, with full consideration given to the other agency's input, 43 CFR 3101.7-1(b) and Chevron Oil Company, IBLA 76-424, March 15, 1976.

4. On lands within National Forest and National Grassland boundaries, the Forest Service (FS) will determine which land will be leased and what the lease stipulations will be. Cooperative procedures, in accordance with the recent FS regulations in 36 CFR 228, are being developed. Additional procedures for BLM input into FS plans to assess oil and gas leasing and to issue oil and gas leases on land within forest boundaries will be developed between the FS and the BLM. Forest plans and NEPA compliance and documentation on all lands within the forest boundaries, including fee surface will be completed by the FS. The BLM will be a joint lead or formal cooperating agency in these FS documents.

5. Private surface owner input into lease stipulations is not actively solicited at the leasing stage. Oil and gas lease stipulations are primarily developed in RMPs, which provide opportunities for private surface owner input through the RMP's normal public participation channels. Landowner input is actively solicited at the actual operations approval or application for permit to drill (APD) stage, per Onshore Order No. 1. The private surface owner's needs will be addressed at this stage. Lease stipulations on private surface are not intended to dictate surface management, but are intended to provide required protection of important resources that may be impacted by federal actions. Thus, any stipulations imposed are a result of NEPA and not the planning portion of the RMP/EIS. State surface is treated the same as private surface unless the DO has coordinated with the state in special stipulation development.

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### F. No Surface Occupancy (NSO) Stipulation Guidance (see Illustrations 2 and 5).

1. The NSO stipulation is intended for use only when other stipulations are determined insufficient to adequately protect the public interest. The land use plan/NEPA document prepared for leasing must show that less restrictive stipulations were considered and the reasons why they were determined by the authorized officer to be insufficient. The planning/NEPA record must also show that consideration was given to a no-lease alternative when applying an NSO stipulation. An NSO stipulation is not needed if the desired level of protection can be obtained through relocation of proposed operations by up to 200 meters (43 CFR 3101.1-2) at some reasonable site on the lease, or by use of a seasonal restriction.

2. The legal subdivision, distance, location, or geographic feature, and resource value of concern must be identified in the stipulation and be tied to a land use plan and/or NEPA document. Land description may be stated as: the "Entire Lease," distance from resources and facilities such as rivers, trails, campgrounds, etc.; legal description; geographic feature such as the 100-year floodplain, municipal watershed, percent of slope, etc.; Special Areas with identified boundaries—area of critical environmental concern, Wild and Scenic River, etc., or other description that specifies the boundaries of the lands affected. The estimated percentage of the total lease area affected by the restriction must be given if no legal or geographic description of the location of the restriction is given. In other cases the estimated percentage is optional.

3. A waiver, exception, or modification may be approved if the record shows that circumstances or relative resource values have changed or that the lessee can demonstrate that operations can be conducted without causing unacceptable impacts, and that less restrictive stipulations will protect the public interest. Waivers, exceptions, or modifications can only be granted by the authorized officer. If the waiver, exception, or modification does not conform with the land use planning document, or that document does not disclose the conditions under which such changes will be allowed, the plan or NEPA decision document(s) must be amended as necessary, or the change disallowed.

4. If the authorized officer determines, prior to lease issuance, that a stipulation involves an issue of major concern, modification, or waiver of the stipulation will be subject to a 30-day public review period (e.g., 43 CFR 3101.1-4). The land use plan should also identify when a public review is required for waiver, exception, or modification. In such cases, wording should be added to the stipulation form to inform the lessee of the required public review.

### G. Timing Limitation Stipulation Guidance (see Illustrations 3 and 6).

1. The timing limitation (often called seasonal) stipulation prohibits fluid mineral exploration and development activities for time periods less than yearlong. When using this stipulation, assure that the date(s) and location(s) are as specific as possible. A timing limitation stipulation is not necessary if the time limitation involves the prohibition of new surface disturbing operations for periods of less than 60 days per lease year (43 CFR 3101.1-2).

2. The land use plan/NEPA document prepared for leasing must show that less restrictive stipulations were considered and determined to be insufficient. The environmental effects of exploration, development and production activities may differ markedly from each other in scope and intensity. If the effects of reasonably foreseeable production activities necessitate production timing limitation requirements, this need should be clearly documented in the record. The record should also show that less stringent, project-specific mitigation may be insufficient. In such cases, the stipulation language should be modified on a case-by-case basis to clearly document that the timing limitation applies to all stages of activity.

3. The legal subdivision, distance, location, or geographic feature, and resource value of concern must be identified in the stipulation and be tied to a land use plan and/or NEPA document. The timing limitations for separate purposes may be written on separate forms or as one combined stipulation. During the review and decisionmaking process for APDs and Sundry Notices, the date(s) and location(s) should be refined based on current information.

4. Land use plans and/or NEPA documents should identify the specific conditions for providing

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waivers, exceptions, or modifications to lease stipulations. Waivers, exceptions, or modifications of stipulations (such as continuing drilling operations into a restricted time period), must be supported with appropriate documentation in the environmental analysis done for the APD or other operations proposal and documentation tiered to the RMP/EIS. Language from the RMP/EIS may be added to the stipulation form to provide the lessee with information or circumstances under which waiver, exception, or modification would be considered. The need for one-time, case-by-case exceptions of timing limitation stipulations may arise from complications or emergencies during the drilling program. The need for timely review and decisionmaking is great in such cases. For this reason, it is desirable that land use plans/NEPA documents clarify what review procedures and other requirements, if any, will apply in such cases.

5. A waiver, exception, or modification may be approved if the record shows that circumstances or relative resource values have changed or that the lessee can demonstrate that operations can be conducted without causing unacceptable impacts, and that less restrictive stipulations will protect the public interest. Waivers, exceptions, or modifications can only be granted by the authorized officer. If the waiver, exception, or modification does not conform with the land use planning document, or that document does not disclose the conditions under which such changes will be allowed, the plan or NEPA decision document(s) must be amended as necessary, or the change disallowed.

6. If the authorized officer determines, prior to lease issuance, that a stipulation involves an issue of major concern, modification, or waiver of the stipulation will be subject to public review (e.g., 43 CFR 3101.1-4). The land use plan may also identify other cases when a public review is required for waiver, exception, or modification. In such cases, wording such as the following should be added to the stipulation form to inform the lessee of the required public review: "A 30-day public notice period is required prior to modification or waiver of this stipulation."

### H. Controlled Surface Use Stipulation Guidance (see Illustrations 4 and 7).

1. The Controlled Surface Use (CSU) stipulation is intended to be used when fluid mineral occupancy and use are generally allowed on all or

portions of the lease area year-round, but because of special values, or resource concerns, lease activities must be strictly controlled. This stipulation replaces stipulations commonly referred to as Limited Surface Use Stipulations. The CSU stipulation is used to identify constraints on surface use or operations which may otherwise exceed the mitigation provided by Section 6 of the standard lease terms, and the regulations and operating orders. The CSU stipulation is less restrictive than the NSO or timing limitation stipulation, which prohibit all occupancy and use on all or portions of a lease for all or portions of a year. The CSU Stipulation should not be used in lieu of an NSO or Timing Limitation Stipulation. The use of this stipulation should be limited to areas where restrictions or controls are necessary for specific types of activities rather than all activity.

2. The stipulation should explicitly describe what activity is to be restricted or controlled, or what operation constraints are required, and must identify the applicable area and the reason for the requirement. The record must show that less restrictive stipulations were considered and why they were determined to be insufficient. The legal subdivision, distance, location, or geographic feature, and resource value of concern must be identified in the stipulation and be tied to a land use plan and/or NEPA document (see Illustration 8).

3. Land use plans and/or NEPA decision documents should identify the specific conditions for providing waivers, exceptions, or modifications to lease stipulations. Waivers, exceptions, or modifications of a stipulation(s) must also be supported with appropriate documentation in the environmental analysis for the action and the documentation tiered to the RMP/EIS. Language may be added to the stipulation form to provide the lessee with information or circumstances under which waiver, exception, or modification would be considered. A waiver, exception, or modification may be approved if the record shows that circumstances or relative resource values have changed, or that the lessee can demonstrate that operations can be conducted without causing unacceptable impacts, and that less restrictive stipulations will protect the public interest. Waivers, exceptions, or modifications can only be granted by the authorized officer. If the waiver, exception, or modification is inconsistent with the land use planning document, that document must be amended as necessary, or the change disallowed.

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### I. Special Administration Stipulation Guidance.

1. There is no required or suggested uniform format for these stipulations. They are usually provided by another agency or organization. However, other agencies are to be encouraged to use the uniform stipulation format.

2. Special administration stipulations are used in situations where the three uniform stipulation forms or Lease Notices do not adequately address the concern. Special administration stipulations should be used only when special external conditions, such as pre-existing agreements with other agencies, require use of a one-of-a-kind stipulation that is not used in any other area or situation. The resource use or value, location, and specific restrictions must be clearly identified. In addition, the external agency, agreement or pre-existing use that dictates the special restrictions must be identified. The stipulation should state if, and under what circumstances a waiver, exception, or modification may be allowed.

3. Examples of Special Administration Stipulations are:

a. Stipulation for lands of the National Forest System under jurisdiction of Department of Agriculture.

b. Stipulation for leases subject to a Highway Material Site Right-of-Way (BLM, New Mexico; Agreement with New Mexico Highway Department).

c. New Mexico Potash Stipulation for oil and gas leases (Department of Interior, Federal Register Notice, November 5, 1975).

d. Jackson Hole Area Oil and Gas Lease Stipulation.

e. White Sands Missile Range Stipulation (BLM, New Mexico; Agreement with Army Corps of Engineers).

f. Lease Stipulation, Bureau of Reclamation, Form 3109-1, (BLM, Utah; Agreement with BOR).

g. Special State of Idaho Stipulations;

Bureau of Aeronautics and Public Transportation (BLM, Idaho; Agreement with State of Idaho).

### J. Lease Notice Guidance (see Illustration 8).

1. Lease notices are attached to leases to transmit information at the time of lease issuance to assist the lessee in submitting acceptable plans of operation, or to assist in administration of leases. Lease notices are attached to leases in the same manner as stipulations; however, there is an important distinction between lease notices and stipulations. Lease notices do not involve new restrictions or requirements. Any requirements contained in a lease notice must be fully supported in either laws, regulations, standard lease terms, or onshore oil and gas orders. Guidance in the use of lease notices is found in BLM Manual 3101 and 43 CFR 3101.1-3.

2. A lease notice should contain the following elements: (1) the resource/use/value; the lands affected, if applicable; (2) the reason(s); (3) the effect on lease operations or what may be required; and (4) a reference to the lease term, regulation, law or order from which enforcement authority is derived.

3. If a situation or condition is known to exist that could affect lease operations, there should be full disclosure at the time of lease issuance via a lease notice. If a lessee may be prevented from extracting oil and gas through a prohibition mandated by a specific nondiscretionary statute, such as the Endangered Species Act, then a stipulation may be used even though a lease notice would be sufficient. It is at the discretion of the authorized officer whether a situation is sufficiently sensitive to warrant the use of a lease notice or stipulation.

### K. BLM No-Leasing Areas.

1. No-leasing areas must be supported by final land use plan decisions as stated in BLM Manual 1624.2, Supplemental Program Guidance for Energy and Mineral Resources. No-leasing decisions should be used in areas where it is readily apparent that oil and gas development would result in unacceptable adverse impacts and/or the surface resource produces a better benefit to the public. In areas where the potential for such unacceptable impacts will remain beyond the life of the land use plan, a withdrawal should be sought. No-leasing or closure areas must be justified in the land

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use plan by showing that all other less restrictive (i.e.; NSO leasing) measures have been carefully analyzed and considered, but rejected due to the significance of the land use conflict.

2. Prior to plan finalization, the Bureau Director will be notified of the no-lease proposal and its rationale. Unless objections are received, we will proceed with the no-lease decision.

3. Areas of significant concern may be suspended from leasing, pending land use planning decisions, by DO recommendations and appropriate supporting rationales to the MSO.

### L. Stipulation Waivers, Exceptions and Modifications.

1. The RMPs will identify those stipulations that the Bureau will waive without public involvement and those that will be waived only with public involvement. The type and level of any public involvement required will also be detailed in the plan.

2. Land use plans and/or NEPA decision documents should identify the specific conditions for providing waivers, exceptions, or modifications to lease stipulations. Waivers, exceptions, or modifications must be supported by appropriate environmental analysis and documentation tiered to the RMP/EIS. Language may be added to the stipulation form to provide the lessee with information or circumstances under which waivers, exceptions, or modifications would be considered. Waivers, exceptions, or modifications may be approved if the record shows that circumstances or relative resource values have changed or that the lessee can demonstrate that operations can be conducted without causing unacceptable impacts, and that less restrictive stipulations will protect the public interest. Waivers, exceptions, or modifications can only be granted by the authorized officer. If the waivers, exceptions, or modifications are inconsistent with the land use planning document, that document must be amended as necessary, or the change disallowed.

3. If the authorized officer determines, prior to lease issuance, that a stipulation involves an issue of major concern, waivers, exceptions or modifications of the stipulation will be subject to public review (43 CFR 3101.1-4). The land use plan may also identify other cases when a public review is required for waivers,

exceptions, or modifications. In such cases, wording such as the following should be added to the stipulation form to inform the lessee of the required public review: "A 30-day public notice period is required prior to modification or waiver of this stipulation."

4. In any case, stipulations will only be changed (waived, excepted or modified) if circumstances change, or if the lessee can demonstrate that his proposed operation can be conducted without causing unacceptable impacts. The rationale for all changes must be documented in the application casefile.

### M. BLM Oil and Gas Leasing Withdrawal Areas.

1. Normally, areas permanently undesirable for oil and gas leasing, due to other resource conflicts, should be identified to the Bureau Director and the Department for formal withdrawal. Lands which may become desirable for oil and gas leasing during the next planning cycle should not be withdrawn.

### N. Leasing Within Subdivisions Covered in Part by Wilderness Study Areas (WSAs).

1. By order of Congress, no oil and gas leasing is allowed within WSAs.

2. Oil and gas leasing adjacent to WSAs may occur up to the WSA boundary, which normally does not follow legal subdivision lines. Wilderness study area boundaries will be identified by the MSO from DO-provided plats showing appropriate WSA boundaries. The DO must update these plats as WSA boundaries change.

3. If a lease is near or adjacent to a WSA boundary, the MSO will transmit to the DO a worksheet covering lands inside and outside the WSA boundary. The DO will furnish the acreage inside and outside the boundary on a segregation worksheet along with a map showing the exact location of the WSA boundary. If any changes have occurred in the WSA boundary since the plats in the MSO were completed, an updated plat should also be sent.

4. A disclaimer will be added to the lease to the effect that the lease does not, and is not intended to include any land within a WSA boundary, and that the BLM DO with surface jurisdiction must be contacted to

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determine the exact boundary of the WSA.

5. The MSO will xerox a copy of the oil and gas plat, prepared by the DO office, to attach to any lease adjacent to a WSA boundary.

6. As an alternative to the above procedure, DOs may provide the MSO Fluid Minerals Adjudication staff with United States Geological Survey topographic quadrangles, showing the WSA boundaries with calculated acreages both inside and outside the boundary where the boundary cuts any legal subdivisions.

### O. Conflicts with Other Minerals.

1. It is our policy that coal, trona, potash, or other feasible mineral estate will not be leased within producing oil and gas areas unless stipulations can be developed for these prospective leases that allow compatibility between the mining operation and oil or gas production.

2. Conversely, we will not issue oil and gas leases within active coal, trona, potash, etc., mine areas (areas with approved, or applied for, mining permits or operations plans), unless stipulations can be developed for these prospective oil and gas leases that allow for compatibility between the mining operation and oil and gas exploration and production. If a question exists as to permit status or plans, coordination with the MSO Branch of Solid Minerals is appropriate.

3. Oil and gas leases and other mineral leases will otherwise occur without special lease stipulations relating to each other. Any conflicts arising under this situation will be resolved at the operations (APD or mine proposal) stage, with the knowledge that the lessee first proposing and conducting an operation generally has a prior right (regardless of the relative timing of lease issuance).

### P. Summary of Forms Utilized.

1. The following forms are utilized in the oil and gas leasing process by the DOs and the MSO. The

form superseded is also shown for reference.

Present Form	Form Title	Superseded Forms
3100-11	Offer to Lease and Lease for Oil and Gas (Illustration 1)	3110-1, 2, 3; 3120-1, 7; 3131-4, 5, 7
MT-3109-1 (April 1987)	Oil and Gas Lease Stipulation and Notice ("Standard Stipulation")	MT-3109-1 (July 1984) Obsolete-use only in areas where required by existing (pre-1989) planning documents.
MT-3109-2 (July 1989)	No Surface Occupancy Stipulation (Illustration 2)	MT-3109-2 (July 1983) MT-3109-3 (May 1985/April 1987)
MT-3109-4 (July 1989)	Controlled Surface Use Stipulation (Illustration 3)	MT-3109-7 (June 1983)
MT-3109-3 (July 1989)	Timing Limitation Stipulation (Illustration 4)	MT-3109-3 (April 1987)

2. Other SMAs (FS, DOD, etc.) have various stipulation forms attached by the MSO Fluid Minerals Adjudication Section at the SMA request. These forms are not cited here, as field offices would not utilize these forms.

### Q. Lease Stipulation Automation.

1. Upon completion of a plan amendment/EIS or new plan and development of software, field offices will automate oil and gas lease stipulation data bases to 40 acre resolution. Field offices will update this data base on a regular basis when new information becomes available or conditions change. The MSO or field offices will use this data base to place stipulations on leases. Field offices must comply with "WEM" criteria in the plan to change, remove or add stipulations. The data base will include all known lease stipulations necessary and will also identify subdivisions where further field office review is required before leasing.

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### GLOSSARY OF TERMS

#### (C)

**Change:** Any alteration of a lease stipulation by either a waiver, exception or modification.

**Condition of Approval (COA):** Conditions or provisions (requirements) under which an Application for Permit to Drill or a Sundry Notice is approved.

**Controlled Surface Use (CSU):** Use and occupancy is allowed (unless restricted by another stipulation), but identified resource values require special operational constraints that may modify the lease rights. A CSU is used for operating guidance, not as a substitute for the NSO or Timing Stipulations.

#### (E)

**Exception:** Case-by-case exemption from a lease stipulation. The stipulation continues to apply to all other sites within the leasehold to which the restrictive criteria applies.

#### (L)

**Lease Notice:** Provides more detailed information concerning limitations that already exist in law, lease terms, regulations or operational orders. A Lease Notice also addresses special items the lessee should consider when planning operations, but does not impose new or additional restrictions. Lease Notices attached to leases should not be confused with NTLs—Notices to Lessees (see 43 CFR 3160.0-5(n)).

#### (M)

**Modification:** Fundamental change to the provisions of a lease stipulation, either temporarily or for the term of the lease. A modification may, therefore, include an exemption from or alteration to a stipulated requirement. Depending on the specific modification, the stipulation may or may not apply to all other sites within the leasehold to which the restrictive criteria applied.

#### (N)

**No Surface Occupancy (NSO):** Use or occupancy of the land surface for fluid mineral exploration or development is prohibited to protect identified resource values. The NSO Stipulation includes stipulations which may have been worded as "No Surface Use/Occupancy," "No Surface Disturbance," "Conditional NSO," and "Surface Disturbance or Surface Occupancy Restriction (by location)."

**Notice to Lessees (NTL):** The NTL is a written notice issued by the authorized officer. The NTLs implement regulations and operating orders, and serve as instruction on a specific item(s) of importance within a state, district or area.

#### (S)

**Stipulation:** A provision that modifies standard lease rights and is attached to, and made a part of, the lease.

#### (T)

**Timing Limitation (Seasonal Restriction):** Prohibits surface use during specified time periods to protect identified resource values. This stipulation does not apply to the operation and maintenance of production facilities unless the findings of analysis demonstrate the continued need for such mitigation, and that less stringent, project-specific mitigation measures would be insufficient.

#### (W)

**Waiver:** Permanent exemption from a lease stipulation. The stipulation no longer applies anywhere within the leasehold.

H-3101-1 — ISSUANCE OF LEASES

EXAMPLE  
 OFFER TO LEASE AND LEASE FOR OIL AND GAS

Form 3100-11  
 (June 1982)

UNITED STATES  
 DEPARTMENT OF THE INTERIOR  
 BUREAU OF LAND MANAGEMENT

Serial No.  
 M-0000

OFFER TO LEASE AND LEASE FOR OIL AND GAS

The undersigned (reverses) offers to lease all or any of the lands in Item 2 that are available for lease pursuant to the Mineral Leasing Act of 1920, as amended and supplemental (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351-359), the Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 411), or the

READ INSTRUCTIONS BEFORE COMPLETING

1. Name **Red Ryder**  
 Street **Box B-B**  
 City, State, Zip Code **Daisy, CA 87321**

2. This application/offer/lease is for: (Check only One)  PUBLIC DOMAIN LANDS  ACQUIRED LANDS (provide U.S. interest \_\_\_\_\_)

Surface managing agency if other than BLM: \_\_\_\_\_ Unit/Project: \_\_\_\_\_

Legal description of land requested: \_\_\_\_\_ Parcel No.: \_\_\_\_\_ Sale Date (month): \_\_\_\_ / \_\_\_\_ / \_\_\_\_

\*SEE ITEM 2 IN INSTRUCTIONS BELOW PRIOR TO COMPLETING PARCEL NUMBER AND SALE DATE.

T. \_\_\_\_\_ R. \_\_\_\_\_ Meridian \_\_\_\_\_ State \_\_\_\_\_ County \_\_\_\_\_

Amount required: Filing fee \$ \_\_\_\_\_ Rental fee \$ \_\_\_\_\_ Total acres applied for \_\_\_\_\_  
 Total \$ \_\_\_\_\_

DO NOT WRITE BELOW THIS LINE

3. Land included in lease:

T. **8 S.** S. **57 E.** Meridian **P.M.** State **MONTANA** County **Carter**

Sec. 26: **W<sub>2</sub>N<sub>2</sub>E<sub>4</sub>**

Total acres in lease 80.00  
 Rental required \$ 160.00

This lease is issued granting the exclusive right to drill for, mine, extract, remove and dispose of all the oil and gas (except helium) in the lands described in Item 3 together with the right to build and maintain necessary improvements thereon for the term indicated below, subject to removal or easements in accordance with the appropriate leasing authority. Rights granted are subject to applicable laws, the terms, conditions, and attached stipulations of this lease, the Secretary of the Interior's regulations and federal orders in effect as of lease issuance, and to regulations and federal orders hereafter promulgated when not inconsistent with lease rights granted or specific provisions of this lease.

NOTE: This lease is issued to the high bidder pursuant to his/her duly executed bid or nomination form submitted under 43 CFR 3120 and is subject to the provisions of that bid or nomination and those specified on this form.

Type and primary term of lease:

THE UNITED STATES OF AMERICA

Noncompetitive lease (ten years)

by /s/ James Doe

Competitive lease (five years)

(Signing Officer)  
**Chief, Leasing Unit August 21, 1989**

Other \_\_\_\_\_

(Year) (Date)  
 EFFECTIVE DATE OF LEASE **October 1, 1989**

(Continued on reverse)

## H-3101-1 — ISSUANCE OF LEASES

### EXAMPLE OFFER TO LEASE AND LEASE FOR OIL AND GAS

4. (a) Undersigned certifies that (1) offeror is a citizen of the United States; an association of such citizens; a municipality; or a corporation organized under the laws of the United States or any State or Territory thereof; (2) all parties holding an interest in the offer are in compliance with 43 CFR 3100 and the leasing authorities; (3) offeror's chargeable interests, direct and indirect in either public domain or acquired lands do not exceed 246,000 acres in Federal oil and gas leases in the same State, of which not more than 200,000 acres are held under option, or 300,000 acres in leases and 200,000 acres in options in other leasing Districts in Alaska; (4) offeror is not considered a minor under the laws of the State in which the lands covered by this offer are located; (5) offeror is in compliance with qualifications concerning Federal coal lease holdings provided in sec. 22a(2)(A) of the Mineral Leasing Act; and (6) offeror is in compliance with reclamation requirements for all Federal oil and gas lease holdings as required by sec. 17(g) of the Mineral Leasing Act; and (7) offeror is not in violation of sec. 41 of the Act.

(b) Undersigned agrees that signature to this offer constitutes acceptance of this lease, including all terms, conditions, and regulations of which offeror has been given notice, and any amendments or separate lease that may include any land described in the offer upon its leasing in the case this offer was filed but omitted for any reason from this lease. The offeror further agrees that this offer cannot be withdrawn, either in whole or in part, unless the withdrawal is received by the proper BLM State Office before the lease, an amendment to this lease, or a separate lease, whichever covers the land described in the withdrawal, has been signed on behalf of the United States.

This offer will be rejected and will afford offeror no priority if it is not properly completed and executed in accordance with the regulations, or if it is not accompanied by the required payments. 18 U.S.C. Sec. 1081 makes it a crime for any person knowingly and willfully to make to any Department or agency of the United States any false, fictitious or fraudulent statement or representation as to any matter within its jurisdiction.

Duly executed this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_  
(Signature of Lessee or Attorney-in-fact)

#### LEASE TERMS

Sec. 1. Rentals—Rentals shall be paid to proper office of lessor in advance of each lease year. Annual rental rates per acre or fraction thereof are:

- (a) Noncompetitive lease, \$1.50 for the first 5 years; thereafter \$2.00;
- (b) Competitive lease, \$1.50, for primary term; thereafter \$2.00;
- (c) Other, see attachment, or as specified in regulations at the time this lease is issued.

If this lease or a portion thereof is committed to an approved cooperative or unit plan which includes a well capable of producing leased resources, and the plan contains a provision for allocation of production, royalties shall be paid on the production allocated to the lease. However, annual rentals shall continue to be due at the rate specified in (a), (b), or (c) for those lands not within a participating area.

Failure to pay annual rental, if due, on or before the anniversary date of this lease (or next official working day if office is closed) shall automatically terminate this lease by operation of law. Rentals may be waived, reduced, or suspended by the Secretary upon a sufficient showing by lessee.

Sec. 2. Royalties—Royalties shall be paid to proper office of lessor. Royalties shall be computed in accordance with regulations on production removed or sold. Royalty rates are:

- (a) Noncompetitive lease, 12% S;
- (b) Competitive lease, 12% S;
- (c) Other, see attachment, or as specified in regulations at the time this lease is issued.

Lessor reserves the right to specify whether royalty is to be paid in value or in kind, and the right to establish reasonable maximum values on products after giving lessee notice and an opportunity to be heard. When paid in value, royalties shall be due and payable on the last day of the month following the month in which production occurred. When paid in kind, production shall be delivered, unless otherwise agreed to by lessee, in merchantable condition on the premises where produced without cost to lessor. Lessee shall not be required to hold such production in storage beyond the last day of the month following the month in which production occurred, nor shall lessee be held liable for loss or destruction of royalty oil or other products in storage from causes beyond the reasonable control of lessee.

Minimum royalty in lieu of rental of not less than the rental which otherwise would be required for that lease year shall be payable at the end of each lease year beginning on or after a discovery in paying quantities. This minimum royalty may be waived, suspended, or reduced, and the above royalty rates may be reduced, for all or portions of this lease if the Secretary determines that such action is necessary to encourage the greatest ultimate recovery of the leased resources, or is otherwise justified.

An interest charge shall be assessed on late royalty payments or underpayments in accordance with the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) (30 U.S.C. 1701). Lessee shall be liable for royalty payments on oil and gas lost or wasted from a lease site which such loss or waste is due to negligence on the part of the operator, or due to the failure to comply with any rule, regulation, order, or citation issued under FOGRMA or the leasing authority.

Sec. 3. Bonds—A bond shall be filed and maintained for lease operations as required under regulations.

Sec. 4. Driftage, use of development, utilization, and drainage—Lessee shall exercise reasonable diligence in developing and producing, and shall prevent unnecessary damage to, loss of, or waste of leased resources. Lessee reserves rights to specify rates of development and production to the public interest and to require lessee to subscribe to a cooperative or unit plan, within 30 days of notice, if deemed necessary for proper development and operation of area, field, or pool containing these leased lands. Lessee shall drill and produce wells necessary to protect leased lands from drainage or pay compensatory royalty for drainage in amount determined by lessee.

Sec. 5. Documents, evidence, and inspection—Lessee shall file with proper office of lessor, not later than 30 days after effective date thereof, any contract or evidence of other arrangement for sale or disposal of production. At such times and in such form as lessor may prescribe, lessee shall furnish detailed statements showing amounts and quality of all products removed and sold, proceeds therefrom, and amounts used for production purposes or nonmarketably lost. Lessee may be required to provide plans and technical drawings showing development work and improvements, and reports with respect to parties in interest, expenditures, and depreciation costs in the form prescribed by lessor. Lessee shall keep a daily drilling record, a log, information on well surveys and tests, and a record of subsurface investigations and British copies to lessor when required. Lessee shall keep open at all reasonable times for inspection by any authorized office of lessor, the leased premises and all wells, improvements, machinery, and fixtures thereon, and all books, accounts, maps, and records relative to operations, surveys, or investigations on or in the leased lands. Lessee shall maintain copies of all contracts, sales agreements, accounting records, and documentation such as billings, invoices, or similar documents that support

claims claimed as manufacturing, preparation, and/or transportation costs. All such records shall be maintained in lessee's accounting offices for future audit by lessor. Lessee shall maintain required records for 6 years after they are generated or, if an audit or investigation is underway, until released of the obligation to maintain such records by lessor.

During existence of this lease, information obtained under this section shall be closed to inspection by the public in accordance with the Freedom of Information Act (5 U.S.C. 552).

Sec. 6. Conduct of operations—Lessee shall conduct operations in a manner that minimizes adverse impacts to the land, air, and water, on cultural, biological, visual, and other resources, and to other land uses or users. Lessee shall take reasonable measures deemed necessary by lessor to accomplish the intent of this section. To the extent consistent with lease rights granted, such measures may include, but are not limited to, modification or siting or design of facilities, timing of operations, and specification of interim and final reclamation measures. Lessor reserves the right to continue existing uses and to authorize future uses upon or in the leased lands, including the approval of easements or rights-of-way. Such uses shall be conditioned so as to prevent unnecessary or unreasonable interference with rights of lessee.

Prior to disturbing the surface of the leased lands, lessee shall contact lessor to be apprised of procedures to be followed and modifications or reclamation measures that may be necessary. Areas to be disturbed may require inventories or special studies to determine the extent of impacts to other resources. Lessee may be required to complete master inventories or short term special studies under guidelines provided by lessor. If in the conduct of operations, threatened or endangered species, objects of historic or scientific interest, or substantial unanticipated environmental effects are observed, lessee shall immediately contact lessor. Lessee shall cease any operations that would result in the destruction of such species or objects.

Sec. 7. Mining operations—To the extent that impacts from mining operations would be substantially different or greater than those associated with normal drilling operations, lessor reserves the right to deny approval of such operations.

Sec. 8. Extraction of helium—Lessee reserves the option of extracting or having extracted helium from gas production in a manner specified and by means provided by lessor at an expense or loss to lessee or owner of the gas. Lessee shall include in any contract of sale of gas the provisions of this section.

Sec. 9. Damages to property—Lessee shall pay lessor for damage to lessor's improvements, and shall save and hold lessor harmless from all claims for damage or harm to persons or property as a result of lease operations.

Sec. 10. Protection of diverse interests and equal opportunity—Lessee shall: pay when due all state legally assessed and levied under laws of the State or the United States; accord all employees complete freedom of purchase; pay all wages at least twice each month in lawful money of the United States; maintain a safe working environment in accordance with standard industry practices; and take measures necessary to protect the health and safety of the public.

Lessee reserves the right to ensure that production is sold at reasonable prices and to prevent monopoly. If lessee operates a pipeline, or owns controlling interest in a pipeline or a company operating a pipeline, which may be operated accessible to oil derived from these leased lands, lessee shall comply with section 25 of the Mineral Leasing Act of 1920.

Lessee shall comply with Executive Order No. 11246 of September 24, 1965, as amended, and regulations and relevant orders of the Secretary of Labor issued pursuant thereto. Neither lessee nor lessee's subcontractors shall maintain segregated facilities.

Sec. 11. Transfer of lease interests and relinquishment of lease—As required by regulations, lessee shall file with lessor any assignment or other transfer of an interest in this lease. Lessee may relinquish this lease or any legal subdivision by filing in the proper office a written relinquishment, which shall be effective as of the date of filing, subject to the continued obligations of the lease and surety to pay all accrued rentals and royalties.

Sec. 12. Delivery of premises—As such time as all or portions of this lease are returned to lessor, lessee shall place affected wells in condition for suspension or abandonment, reclaim the land as specified by lessor and, within a reasonable period of time, remove equipment and improvements not deemed necessary by lessor for preservation of producible wells.

Sec. 13. Proceedings in case of default—If lessee fails to comply with any provisions of this lease, and the noncompliance continues for 30 days after written notice thereof, this lease shall be subject to cancellation unless or until the lessee holds a well capable of production of oil or gas in paying quantities, or the lease is committed to an approved cooperative or unit plan or communitization agreement which contains a well capable of production of oil or gas in paying quantities. This provision shall not be construed to prevent the exercise by lessor of any other legal and equitable remedy, including waiver of the default. Any such remedy or waiver shall not prevent later cancellation for the same default occurring at any other time. Lessee shall be subject to applicable provisions and penalties of FOGRMA (30 U.S.C. 1701).

Sec. 14. Heirs and successors-in-interest—Each obligation of this lease shall extend to and be binding upon, and every benefit hereof shall inure to the heirs, executors, administrators, accountants, beneficiaries, or assignees of the respective parties hereto.

## H-3101-1 — ISSUANCE OF LEASES

### EXAMPLE NO SURFACE OCCUPANCY STIPULATION

United States Department of the Interior  
Bureau of Land Management  
Montana State Office

### NO SURFACE OCCUPANCY STIPULATION

Serial No. \_\_\_\_\_

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

- a. T. 174 N., R. 103 W., 5th PLM.  
Sec. 29: N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$
- b. 1,320 feet from scenic and recreational segments of Flathead Wild and Scenic River.  
  
T. 31 N., R. 17 W., PMM  
Sec. 28: E $\frac{1}{2}$ SE $\frac{1}{4}$

For the purpose of:

- a. Avoidance of steep slopes exceeding 40 percent to avoid man slope-failure (Management D, Custer Forest Plan, page 55).
- b. Protection of visual and recreational qualities as discussed in Flathead Forest Plan (p. 89) and EIS (p. 171).

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FR Manual 1960 and 2820.)

MT-3109-2 (July 1989)

## H-3101-1 — ISSUANCE OF LEASES

### EXAMPLE CONTROLLED SURFACE USE STIPULATION

United States Department of the Interior  
Bureau of Land Management  
Montana State Office

### CONTROLLED SURFACE USE STIPULATION

Serial No. \_\_\_\_\_

Surface occupancy or use is subject to the following special operating constraints.

Unless otherwise authorized, access to this leasehold will be limited to the established roadway.

On the lands described below:

Entire lease

For the purpose of:

To meet visual quality objectives and to protect semiprimitive recreation values; Grand Junction Resource Management Plan (p. 89).

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1024 and 3101 or FS Manual 1960 and 2020.)

MT3109-4 (July 1988)

## H-3101-1 — ISSUANCE OF LEASES

### EXAMPLE TIMING LIMITATION STIPULATION

United States Department of the Interior  
Bureau of Land Management  
Montana State Office

### TIMING LIMITATION STIPULATION

Serial No. \_\_\_\_\_

No surface use is allowed during the following time period(s). This stipulation does not apply to operation and maintenance of production facilities.

- a. May 1 to June 15.
- b. During periods when soils are water saturated.

On the lands described below:

- a. Section 21, T. 22 N., R. 12 E.
- b. Entire Lease.

For the purpose of (reasons):

- a. Protect elk calving area; North Fork Forest Plan (p. 62) and EIS (p. A-34).
- b. Prevent excessive soil erosion and stream sedimentation resulting from construction activities during period when soils are saturated. This does not apply to operations and maintenance of production facilities; Broad Draw Resource Management Plan (p. 61).

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

MT-3109-3 (July 1989)

**H-3101-1 — ISSUANCE OF LEASES**

**EXAMPLE  
NO SURFACE OCCUPANCY STIPULATION**

United States Department of the Interior  
Bureau of Land Management  
Montana State Office

**NO SURFACE OCCUPANCY STIPULATION**

Serial No. \_\_\_\_\_

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

For the purpose of:

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

MT-3109-2 (July 1989)

## H-3101-1 — ISSUANCE OF LEASES

### EXAMPLE TIMING LIMITATION STIPULATION

United States Department of the Interior  
Bureau of Land Management  
Montana State Office

### TIMING LIMITATION STIPULATION

Serial No. \_\_\_\_\_

No surface use is allowed during the following time period(s). This stipulation does not apply to operation and maintenance of production facilities.

On the lands described below:

For the purpose of (reasons):

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

MT-3109-3 (July 1988)

## H-3101-1 — ISSUANCE OF LEASES

### EXAMPLE CONTROLLED SURFACE USE STIPULATION

United States Department of the Interior  
Bureau of Land Management  
Montana State Office

### CONTROLLED SURFACE USE STIPULATION

Serial No. \_\_\_\_\_

Surface occupancy or use is subject to the following special operating constraints.

On the lands described below:

For the purpose of:

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

MT-3109-4 (July 1989)

**H-3101-1 — ISSUANCE OF LEASES**

**EXAMPLE  
LEASE NOTICE**

Serial No. \_\_\_\_\_

A 5-acre graveyard is located in the NW1/4NW1/4, Section 6, T. 5 N., R. 31 W., 6 PM. In accordance with Section 6 of the lease terms and 43 CFR 3101.1-2, exploration and development activities must occur outside the graveyard.