

# U.S. Department of the Interior

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## Bureau of Land Management

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Decision Record  
Finding of No Significant Impact  
Environmental Assessment  
DOI-BLM-NM-040-2013-01-EA  
April, 2013

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### April 2013 Competitive Oil and Gas Lease Sale

*Cheyenne County, Kansas*

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**DEPARTMENT OF THE INTERIOR  
BUREAU OF LAND MANAGEMENT  
OKLAHOMA FIELD OFFICE**

**Project: April 2013 Competitive Oil and Gas Lease Sale  
EA Log Number: DOI-BLM-NM-040-2013-01-EA  
Location: Cheyenne County, Kansas.**

**Finding of No Significant Impact**

Based on the analysis of potential environmental impacts contained in the attached Environmental Assessment (EA), I have determined the Proposed Action Alternative is not expected to have significant impacts on the environment.

The impacts of leasing the fluid minerals estate in the areas described with this EA have been previously analyzed in the Kansas Resource Management Plan (RMP), 1991, as amended and the lease stipulations that accompany the tracts proposed for leasing would mitigate the impacts of future development on these tracts. Therefore, preparation of an Environmental Impact Statement (EIS) is not warranted.

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Date: \_\_\_\_\_

**Department of the Interior  
Bureau of Land Management  
Oklahoma Field Office**

**Environmental Assessment  
April 2013 Competitive Oil and Gas Lease Sale  
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## **1.0 Introduction**

It is the policy of the Bureau of Land Management (BLM) as derived from various laws, including the Mineral Leasing Act of 1920 (MLA), as amended [30 U.S.C. 181 *et seq.*], and the Federal Land Policy and Management of 1976 (FLPMA), as amended, to make mineral resources available for disposal and to manage for multiple resources which include the development of mineral resources to meet national, regional, and local needs.

The BLM New Mexico State Office (NMSO) conducts a quarterly competitive lease sale to offer available oil and gas lease parcels in New Mexico, Oklahoma, Texas, and Kansas. A Notice of Competitive Lease Sale (NCLS), which lists lease parcels to be offered at the auction, is published by the NMSO at least 90 days before the auction is held. Lease stipulations applicable to each parcel are specified in the Sale Notice. The decision as to which public land and minerals are open for leasing and what leasing stipulations are necessary, based on information available at the time, is made during the land use planning process. Surface management of non-BLM administered land overlaying Federal minerals is determined by the BLM in consultation with the appropriate surface management agency or the private surface owner.

In the process of preparing a lease sale the NMSO sends a draft parcel list to any field offices in which parcels are located. Field office staff then review the legal descriptions of the parcels to determine if they are in areas open to leasing; if new information has become available which might change any analysis conducted during the planning process; if appropriate consultations have been conducted of which potential bidders should be made aware. The parcels nominated for this sale, along with the appropriate stipulations from the RMP, as posted online for a two week public scoping period. Comments received are reviewed and incorporated into the environmental assessment (EA).

Once the draft parcel review is completed and returned to the NMSO, a list of nominated lease parcels with specific, applicable stipulations is made available online to the public through the NCLS. On rare occasions, additional information obtained after the publication of the NCLS may result in deferral of certain parcels prior to the lease sale.

This EA documents the review of 1 parcel nominated for the April 2013 Competitive Oil and Gas Lease Sale that are administered by the Oklahoma Field Office (OFO). It serves to verify conformance with the

approved land use plan as well as demonstrates the effectiveness of attaching the lease stipulations to specific parcels.

The parcel and applicable stipulations were posted online for a two-week public scoping period beginning on October 29, 2012. No comments were received. In addition, this EA is made available for public review and comment for 30 days beginning on December 3, 2012. Any comments provided prior to the lease sale will be considered and incorporated into the EA as appropriate.

## **1.1 Purpose and Need**

The purpose is to provide opportunities for private individuals or companies to explore for and develop oil and gas resources on public lands through a competitive leasing process.

The need for the action is established by the BLM's responsibility under the MLA, as amended, to promote the exploration and development of oil and gas on the public domain. The MLA also establishes that deposits of oil and gas owned by the United States are subject to disposition in the form and manner provided by the MLA under the rules and regulations prescribed by the Secretary of the Interior, where consistent with the FLPMA, the National Environmental Policy Act (NEPA) of 1969, as amended (Public Law 91-90, 42 USC 4321 *et seq.*), and other applicable laws, regulations, and policies.

The BLM will decide whether or not to lease the nominated parcels and, if so, under what terms and conditions.

## **1.2 Land Use Plan Conformance**

The applicable land use plan for this action is the Kansas Resources Management Plan (RMP) (September 1991), as amended and Final Environmental Impact Statement (FEIS) (July 1991), as amended. The RMP, as amended, described specific split estate tracts in Kansas and the stipulations that would be attached to each tract if they were offered for lease. These stipulations which include seasonal timing limitations and other controlled surface use stipulations were designed to minimize or alleviate potential impacts to special resource values. Since the parcel under consideration falls within this area and the applicable stipulations identified in the RMP would be attached to the parcel, if leased, leasing the parcel would be in conformance with the Kansas RMP. Leasing the parcel would also be consistent with the RMPs goals and objectives for natural and cultural resources.

Pursuant to 40 CFR 1508.28 and 1502.21, this EA is tiered to and incorporates by reference the information and analysis contained in the RMP (1991), as amended. While it is unknown precisely when, where, or to what extent well sites or roads would be proposed, the analysis of projected surface disturbance impacts, should a lease be developed, is based on potential well densities listed in the Reasonable Foreseeable Development (RFD) Scenario included in the RMP. While an appropriate level of site-specific analysis of individual wells or roads would occur when a lease holder submits an Application for Permit to Drill (APD), assumptions based on the RFD scenario may be used in the analysis of impacts in this EA.

FLPMA established guidelines to provide for management, protection, development, and enhancement of public lands (Public Law 94-579). Section 103(e) of FLPMA defines public lands as any lands and interest in lands owned by the US, the BLM has no authority over use of the surface by the surface owner; however, the BLM is required to declare how the federal mineral estate will be managed in the RMP including identification of all appropriate lease stipulations (43 CFR 3101.1 and 43 CFR 1601.0-7(b); BLM Manual Handbook 1601.009 and 1621-1).

### **1.3 Federal, State, or Local Permits, Licenses or Other Consultation Requirements**

Purchasers of oil and gas leases are required to comply with all applicable federal, state, and local laws and regulations, including obtaining all necessary permits required should lease development occur.

OFO biologists reviewed the proposed action and determined it would be in compliance with threatened and endangered species management and consultation guidelines outlined in the Kansas RMP biological assessments (BA) dated May 8, 1990. No further consultation with US Fish and Wildlife (USFWS) is required at this leasing stage.

Compliance with National Historic Preservation Act (NHPA) Section 106 responsibilities are adhered to by following the BLM Manual 8100, 36 CFR Part 800, 43 CFR Part 7, and the Cultural Resources Handbook H-8100-1 (for New Mexico, Oklahoma, Kansas, and Texas). When draft parcels locations are received by the OFO, cultural resource staff reviews the location for any known cultural resources on BLM records.

Tribal consultations would be completed when specific locations for proposed projects are received, reviewed by the State Historic Preservation Office (SHPO), the Bureau of Indian Affairs (BIA), and specific Tribes. When particular Tribes respond during consultation, that tribe would be directly involved in negotiations with the BLM to determine if the project should be moved, or other mitigation required.

In Section 1835 of the Energy Policy Act of 2005 (43 USC 1508), Congress directed the Secretary of the Interior to review current policies and practices with respect to management of federal subsurface oil and gas development activities and their effects on privately owned surface. The Split Estate Report, submitted in December 2006, documents the findings resulting from consultation on the split estate issue with affected private surface owners, the oil and gas industry, and other interested parties.

NMSO contacts the surface owners and notifies them of the expression of interest and the date the oil and gas rights would be offered for competitive bidding. The BLM would provide the surface owners with its website address so they may obtain additional information related to the oil and gas leasing process, the imposition of any stipulations on that lease parcel, federal and state regulations, and best management practices (BMPs). The surface owners may elect to protest the leasing of the minerals underlying their surface.

If the BLM receives a protest, the parcel would remain on the lease sale. However, the BLM would resolve any protest prior to issuing an oil and gas lease for that parcel. If the protest is upheld, the BLM

would return the payments received from the successful bidder for that parcel. After the lease sale has occurred, the BLM would post the results on its website and the surface owner may access the website to learn the results of the lease sale.

## **1.4 Identification of Issues**

An internal review of the Proposed Action was conducted by an interdisciplinary team of OFO resource specialists on October 16, 2012, to identify and consider potentially affected resources and associated issues. During the meeting, the interdisciplinary team also identified and subsequently addressed any unresolved issues or conflicts related to the Proposed Action.

The parcels included the Proposed Action, along with the appropriate stipulations from the RMP, were posted online at [http://www.blm.gov/nm/st/en/prog/energy/oil\\_and\\_gas/oil\\_and\\_gas\\_lease.html](http://www.blm.gov/nm/st/en/prog/energy/oil_and_gas/oil_and_gas_lease.html) for a two-week public scoping period beginning October 29, 2012. No comments were received.

Based on these efforts, the following issues have been determined relevant to the analysis of this action:

### **Air Quality**

- What effect will the proposed action have on atmospheric pollutants and contaminants?

### **Climate**

- What effect will the proposed action have on climate change?

### **Cultural Resources**

- What effect will the proposed action have on known and newly discovered artifacts of cultural, Native American religious and archeological significance?

### **Floodplains**

- What effect will the proposed action have on floodplains and the integrity of the floodplains?

### **Invasive Species**

- What effect will the proposed action have on the spread of non-native species?

### **Threatened and Endangered Species**

- What effect will the proposed action have on federally listed and state-listed species that have the potential to be located on the proposed lease tracts?

### **Hazard Waste**

- What effect will the proposed action have on the management of fluid mineral drilling and the hazardous wastes produced?

### **Water Quality**

- What effect will the proposed action have on water quality in stream systems?

### **Wetland and Riparian Areas**

- What effect will the proposed action have on wetland and riparian areas?

### **Farmlands, Prime or Unique**

- What effect will the proposed action have on prime or unique farmlands?

### **Mineral Resources**

- What effect will the proposed action have on locatable minerals management?

### **Watersheds**

- What effect will the proposed action have on the watershed condition?

### **Vegetation**

- What effect will the proposed action have on vegetation?

### **Special Status Species**

- What effect will the proposed action have on special status species?

### **Wildlife**

- What effect will the proposed action have on wildlife and their habitat in general?

Several issues were considered during project scoping but dismissed from detailed analysis because there would be no potentially significant effects related to the issues resulting from any of the alternatives presented below. The following elements are determined by an interdisciplinary team of resource specialists, following their onsite visit and review of the Kansas RMP (1991), as amended, and other data sources, to not be present: Areas of Critical Environmental Concern, Caves and Karsts, Livestock Grazing, Native American Religious Concerns, Rights of Way, Recreation, Public Health, Visual Resources, Wild and Scenic Rivers, Wilderness or Wilderness Study Areas, Wild Horses and Burros.

## **2.0 Proposed Action and Alternatives**

### **2.1 Alternative A—No Action**

The BLM NEPA Handbook (H-1790-1) states that for EAs on externally initiated proposed actions, the no action alternative generally means that the action would not take place. In the case of a lease sale, this would mean that an expression of interest to lease (parcel nomination) would be denied or rejected, and the one (1) parcel would not be offered for lease during the April 2013 Competitive Oil and Gas Lease Sale. Surface management and any ongoing oil and gas development on surrounding federal, private, and state leases would continue under current guidelines and practices. Selection of the no action alternative would not prevent this parcel from being nominated in a future lease sale.

### **2.2 Alternative B—Proposed Action**

The proposed Action would be to lease one (1) nominated parcel of federal minerals covering 240 acres administered by OFO. The one (1) proposed lease parcel is located in Cheyenne County, Kansas. Standard terms and conditions as well as stipulations listed in the Kansas RMP (1991), as amended, would apply. A complete description of these parcels, including any stipulations, is provided in Table 1.

A lease notice, WO-ESA-7, would also be attached to each parcel. This notice would notify the lease holder that the BLM reserves direction to modify, if necessary, any action proposed on the lease to ensure threatened, endangered, or other special status species, or their habitats would not be adversely affected. Under the Endangered Species Act (ESA) of 1973, as amended, Section 7 Consultation with the USFWS would occur if development is proposed on a lease containing habitat suitable for these special status species.

Once sold, the lease purchaser would have the exclusive right to use as much of the leased lands as would be necessary to explore and drill for oil and gas within the lease boundaries, subject to stipulations attached to the lease; restrictions deriving from specific, nondiscretionary statutes; and such reasonable measures as may be required by the authorized officer to minimize adverse impacts to other resource values, land uses or users not addressed in the lease stipulations at the time operations are proposed (43 CFR 3101). Oil and gas leases are issued for a 10-year period and continue for as long thereafter as oil or gas is produced in paying quantities. If a lease holder fails to produce oil and gas, does not make annual rental payments, does not comply with the terms and conditions of the lease, or relinquishes the lease, exclusive right to develop the leasehold reverts back to the federal government and the lease can be reoffered in another lease sale.

Drilling of wells on a lease would not be permitted until the lease owner or operator secures approval of a drilling permit and a surface use plan as specified under Onshore Oil and Gas Orders (43 CFR 3162). A permit to drill would not be authorized until site-specific NEPA analysis is conducted.

Standard terms and conditions, stipulations listed in the Kansas RMP, and any new stipulations would apply as appropriate to each lease. In addition, site specific mitigation measures and BMPs would be attached as Conditions of Approval (COAs) for each proposed exploration and development activity authorized on a lease.

**Table 1: Alternative B—Proposed Action Parcels**

Parcel	Comments	Acres
<p style="text-align: center;"><b><u>NM-201304-001</u></b></p> <p>T.0010S, R.0370W, 06TH PM, KS Sec. 016 NE, W2SE</p> <p style="text-align: center;"><b>Cheyenne County, KS</b></p>	<p><u>Lease with the following Stipulations:</u> WO-ESA-7: Threatened &amp; Endangered Consultation WO-NHPA: Tribal and Cultural Resources Consultation</p>	<p style="text-align: center;">240.000</p>

### 3.0 Description of Affected Environment

This section describes the environment that would be affected by implementation of the alternatives described in Section 2. Aspects of the affected environment described in this section focus on the relevant resources and issues. Only those elements of the affected environment that have potential to be significantly impacted are described in detail.

### 3.1 Air Resources

Air quality and climate are components of air resources which may be affected by BLM applications, activities, and resource management. Therefore, the BLM must consider and analyze the potential effects of BLM and BLM-authorized activities on air resources as part of the planning and decision making process. Much of the information referenced in this section is incorporated from the Air Quality Technical Report for BLM Oil and Gas Development in New Mexico, Kansas, Oklahoma, and Texas (herein referred to as Air Quality Technical Report). This document summarizes the technical information related to air resources and climate change associated with oil and gas development.

#### 3.1.1 Air Quality

The Environmental Protection Agency (EPA) has the primary responsibility for regulating air quality, including six nationally regulated ambient air pollutants. These criteria pollutants include carbon monoxide (CO), nitrogen dioxide (NO<sub>2</sub>), ozone (O<sub>3</sub>), particulate matter (PM<sub>10</sub> & PM<sub>2.5</sub>), sulfur dioxide (SO<sub>2</sub>), and lead (Pb). Regulation of air quality is delegated to the states and some tribes. Air quality is determined by atmospheric pollutants and chemistry, dispersion meteorology and terrain.

The area of analysis is considered a Class II air quality area and is not located in any areas designated by the EPA as “non-attainment” for any listed pollutants regulated by the Clean Air Act. A Class II area allows moderate amounts of air quality degradation. The area is also in attainment of all state air quality standards. The primary sources of air pollution are dust from blowing wind on disturbed or exposed soil; exhaust emissions from motorized equipment; oil and gas development, production, and distribution; and agriculture.

#### 3.1.2 Climate

Kansas has what is typically described as a continental climate—meaning without the influence of any major bodies of water. Summers are warm, with the majority of the annual precipitation occurring during this period. Winters tend to be cold with an occasional mild spell and moderate snowfall amounts. Table 2 summarizes components unique of climate that could affect air quality in the region.

**Table 2. Summary of climate components that could affect air quality in the region.**

Climate Component	
Mean maximum summer temperatures	86.6°F
Mean minimum winter temperatures	27.4°F
Mean annual temperature	45.3°F
Total annual precipitation	18.02 inches
Total annual snowfall	27.6 inches
Mean annual wind speed	16.7-20.1 mph

In addition to the air quality information in the Kansas RMP, new information about greenhouse gases (GHGs) and their effects on national and global climate conditions has emerged since the RMP was prepared. Global mean surface temperatures have increased nearly 1.0°C (1.8°F) from 1890 to 2006

(Goddard Institute for Space Studies, 2007). However, observations and predictive models indicate that average temperature changes are likely to be greater in the Northern Hemisphere. Without additional meteorological monitoring and modeling systems, it is difficult to determine the spatial and temporal variability and change of climatic conditions; what is known is that increasing concentrations of GHGs are likely to accelerate the rate of climate change.

GHGs that are included in the US GHG Inventory are: carbon dioxide (CO<sub>2</sub>), methane (CH<sub>4</sub>), nitrous oxide (N<sub>2</sub>O), hydrofluorocarbons (HFCs), perfluorocarbons (PFCs), and sulfur hexafluoride (SF<sub>6</sub>). CO<sub>2</sub> and CH<sub>4</sub> are typically emitted from combustion activities or are directly emitted into the atmosphere. On-going scientific research has identified the potential impacts of GHG emissions (including CO<sub>2</sub>; CH<sub>4</sub>, N<sub>2</sub>O; and several trace gases) on global climate. Through complex interactions on regional and global scales, these GHG emissions cause a net warming effect of the atmosphere (which make surface temperatures suitable for life on Earth), primarily by decreasing the amount of heat energy radiated by the Earth back into space. Although GHG levels have varied for millennia (along with corresponding variations in climatic conditions), recent industrialization and burning of fossil carbon sources have caused CO<sub>2</sub> concentrations to increase dramatically, and are likely to contribute to overall climatic changes. Increasing CO<sub>2</sub> concentrations may also lead to preferential fertilization and growth of specific plant species.

In 2007, the Intergovernmental Panel on Climate Change (IPCC) predicted that by the year 2100, global average surface temperatures would increase 1.4°C to 5.8°C (2.5°F to 10.4°F) above 1990 levels. The National Academy of Sciences (2006) supports these predictions, but has acknowledged that there are uncertainties regarding how climate change may affect different regions. Computer model predictions indicate that increases in temperature will not be equally distributed, but are likely to be accentuated at higher latitudes. Warming during the winter months is expected to be greater than during the summer, and increase in daily minimum temperatures are more likely than increases in daily maximum temperatures. It is not, however, possible at this time to predict with any certainty the causal connection of site specific emissions from sources to impacts on the global/regional climate relative to the proposed lease parcel and subsequent actions of oil and gas development.

A 2007 US Government Accountability Office (GAO) Report on Climate Change found that, “federal land and water resources are vulnerable to a wide range of effects from climate change, some of which are already occurring. These effects include, among others: 1) physical effects such as droughts, floods, glacial melting, and sea level rise; 2) biological effects, such as increases in insect and disease infestations, shifts in species distribution, and changes in the timing of natural events; and 3) economic and social effects, such as adverse impacts on tourism, infrastructure, fishing, and other resource uses.”

A number of activities contribute to the phenomenon of climate change, including emissions of GHGs (especially CO<sub>2</sub> and CH<sub>4</sub>) from fossil fuel development, large wildfires, activities using combustion engines, changes to the natural carbon cycle, and changes to radiative forces and reflectivity (albedo). It is important to note that GHGs will have a sustained climatic impact over different temporal scales due to their differences in global warming potential (described above) and life span of the atmosphere.

### 3.2 Soils

Kansas' varied climate and topography have combined to produce loamy fertile soils suitable for agricultural use. Generally, the soils of the state can be described by color. The black or dark brown soils of the northeastern part of the state are recognized as the most productive while a gradual shading change to light brown and reddish brown are found in the southwest. Soil depths vary throughout the state but generally correspond to the color with the darker soils generally being the deepest.

The proposed lease area is located in the Central High Tableland (MLRA 72) ecoregion characterized by Ustoll soils that are well drained and medium to moderately fine textured (NRCS 2006). They have a mesic temperature regime, an ustic moisture regime and mixed or montmorillonitic mineralogy. Ustoll soils formed under grasslands in dry regions. They have deep, relatively fertile topsoils that have been darkened by the addition of organic matter from grass roots.

The Natural Resource Conservation Service (NRCS) has surveyed the soils in Cheyenne County. The soil map units represented in the project area are in Table 3.

**Table 3. Web soil survey results of soil types found within the Public Land Survey System (PLSS [Township, Range, Section]) of each proposed lease parcel.**

Parcel	Soils			
	Soil Name	Description	Acres in area	% in area
NM-2013-04-001  T.0010S R.0370W Sec. 016  Cheyenne County	Colby silt loam (3-5%; 5-15%, 20-50% slopes)	Well drained on hillslopes; fine-silty calcareous loess parent material; >80" to water table; very high water capacity; no frequency of flooding or ponding.	3-5%= 60.3 5-15%= 5.3 20-50%= 224.0	3-5%= 9.6% 5-15%= 0.9% 20-50%= 35.8%
	Ulysses silt loam	1 to 3 percent slopes; well drained on plains landform; loess parent material; >80" to water table; very high water capacity; no frequency of flooding or ponding.	55.2	8.8%
	Keith silt loams	0 to 1 percent slopes; well drained on plains landform; fine-silty calcareous loess parent material; >80" to water table; very high water capacity; no frequency of flooding or ponding.	184.6	29.5%
	Sulco complex	9 to 60 percent slopes; well drained on hillslopes on canyons; loess parent material; >80" to water table; high water capacity; no frequency of flooding or ponding	96.0	15.4%

The NRCS has also assigned a wind erodibility index value to each soil type. The value indicates the susceptibility of soil to wind erosion, or the tons per year that can be expected to be lost to wind erosion. There is a close correlation between wind erosion and the texture of the surface layer, the size and durability of surface clods, rock fragments, organic matter, and a calcareous reaction. Soil moisture and frozen soil layers also influence wind erosion. The Colby silt loam and Sulco complex soil types have

a rating of 86 tons per acre per year indicating higher susceptibility to wind erosion. The Keith and Ulysses silt loam have a rating of 48 tons per acre per year with a lower susceptibility to wind erosion.

### **3.3 Water Resources**

#### **3.3.1 Surface water**

Kansas has five river systems and more than 50,000 streams large enough to be named. The Missouri, Kansas (commonly known as the Kaw) and Arkansas rivers are considered navigable by the state of Kansas, none of which are in the proposed lease area. Approximately 1% of the land in Cheyenne County is water. Within the county, eighteen streams are registered with the Kansas Surface Water Register. An unknown number of additional perennial and intermittent streams are located within the county, along with an unknown number of ephemeral surface water resources found in tributaries, playas, stock tanks, ponds, and wetlands. Factors that currently affect surface water resources include drought, groundwater pumping, agricultural and recreational use, and oil and gas development.

The proposed lease parcel lies within the South Fork Republic watershed (USGS 10250003). No impaired waters have been identified within the watershed since 2010, although elevated pH and fluoride levels have caused impairment in previous years.

#### **3.3.2 Groundwater**

Groundwater that is available to wells in Cheyenne County is derived from precipitation falling as rain or snow within the area or within near-by areas to the west. Groundwater typically moves in a northeasterly or easterly direction throughout the county and is determined to a considerable extent by the shape of the bedrock floor (slopes northeastwards or eastward).

The Ogallala aquifer underlies the proposed lease parcel. Unfortunately, water extraction from the Ogallala is far greater than the rate of recharge; the water table is declining. As water levels fall in the Ogallala, some irrigators have sought water in underlying aquifers. Although these aquifers show some promise, their yields are small compared to the Ogallala and in some cases the quality is so poor as to be unusable. On average the general availability of ground water yields 100 to 500+ gallons per minute.

### **3.4 Floodplains, Wetlands, Riparian Areas**

#### **3.4.1 Floodplains**

For administrative purposes, the 100-year floodplain serves as the basis for floodplain management for Federal actions. These are in general relatively narrow areas along natural drainage ways that carry large quantities of runoff following periods of high precipitation.

There is no 100-year floodplains located within the proposed lease parcel.

### **3.4.2 Wetlands, Riparian Areas**

Wetland habitats provide important wintering and migration habitat for several species of Migratory Birds. Wetlands also provide a link between land and water and are some of the most productive ecosystems in the world. Executive Order (EO) 11990 on the Protection of Wetlands provides opportunity for early review of Federal agency plans regarding new construction in wetland areas.

The USFWS National Wetlands Inventory Mapper showed no wetland or riparian habitat within 300' of this proposed lease sale parcel. The parcel is located in an agriculture field. It is understood that wetland and riparian habitats will not be impacted by the sale of this lease parcel.

### **3.5 Farmlands, Prime or Unique**

The Farmland Protection Policy Act (FPPA), Public Law 97-98, as amended, directs Federal agencies to identify and take into account the adverse effects of Federal programs on the preservation of farmland. The FPPA is intended to minimize the extent Federal programs have on the conversion of farmland to nonagricultural uses. Prime farmland is defined as land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, oilseed crops, and is also available for these uses. In general, prime farmlands have an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, acceptable acidity or alkalinity, acceptable salt and sodium content, and few or no rocks. Unique farmland is land other than prime farmland that is used for the production of specific high value food and fiber crops. It has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality and/or high yields of a specific crop.

The NRCS Web Soil Survey and Soils Data system identified Keith and Ulysses silt loam soil types as "prime farmland if irrigated." These two soil types make up 239.8 acres (38.3%) of the PLSS containing the proposed lease parcel. Another 60.3 acres (9.6%) of Colby silt loam, 3 to 5 percent slopes, soil type is identified as "farmland of unique importance." The remaining 325.3 acres (52.0%) were identified as "not prime farmland."

## **3.6 Heritage Resources**

### **3.6.1 Cultural Resources**

Cultural resource surveys have not been conducted on the proposed lease parcels and the affected environment is unknown. Site-specific cultural resource surveys and appropriate mitigation measures are required as part of the APD process after the parcels are leased. Once that is complete, cultural resources that occur in the area will be known.

### **3.6.2 Paleontology**

All cultural resource surveys for projects in the OFO area of responsibility are required to include statements on any new paleontological material discovered during inventory. These reports are

reviewed and new fossil material is reported to paleontologists. Protection and preservation of significant fossil materials in specific locations would be required for any BLM permitted project.

### **3.6.3 Native American Religious Concerns**

Traditional Cultural Properties (TCPs) are places that have cultural values that transcend the values of scientific importance that are normally ascribed to cultural resources such as archaeological sites. Native American communities are most likely to identify TCPs, although TCPs are not restricted to those associations. Some TCPs are well known, while others may only be known to a small group of traditional practitioners, or otherwise only vaguely known.

There are several pieces of legislation or Executive Orders that should be considered when evaluating Native American religious concerns. These govern the protection, access and use of sacred sites, possession of sacred items, protection and treatment of human remains, and the protection of archaeological resources ascribed with religious or historic importance. These include the following:

- The American Indian Religious Freedom Act of 1978 (AIRFA; 42 USC 1996, P.L. 95-431 Stat. 469).
- Executive Order 13007 (24 May 1996).
- The Native American Graves Protection and Repatriation Act of 1990 (NAGPRA; 25 USC 3001, P.L. 101-601).
- The Archaeological Resources Protection Act of 1979 (ARPA; 16 USC 470, Public Law 96-95).

For the Proposed Action, identification of TCPs will be conducted during the ADP process, limited to reviewing existing published and unpublished literature, and BLM tribal consultation efforts specific to this proposed action with the Prairie Band of Potawatomi Nation, Iowa Tribe of Kansas and Nebraska, and the Kickapoo Tribe of Indians in Kansas.

## **3.7 Invasive, Non-native Species**

Noxious weeds can have a disastrous impact on biodiversity and natural ecosystems. Noxious weeds affect native plant species by out-competing native vegetation for light, water and soil nutrients. Noxious weeds cause \$2 to \$3 million in estimated losses to producers annually. These losses are attributed to: (1) decreased quality of agricultural products due to high levels of competition from noxious weeds; (2) decreased quantity of agricultural products due to noxious weed infestations; and (3) costs to control and/or prevent the spread of noxious weeds.

The Kansas Noxious Weed Law designated 12 plants as noxious weeds. In Cheyenne County, there are three noxious weeds identified as a concern including: field bindweed (*Convolvulus arvensis*), musk (nodding) thistle (*Carduus nutans*), and bur ragweed (*Ambrosia grayii*). The extent of noxious weeds on the proposed lease parcel is unknown.

## **3.8 Vegetation**

The proposed lease area was historically native short grass prairie that was dominated by blue grama (*Bouteloua gracilis*) and buffalograss (*Buchloe dactyloides*) on gentler slopes, while sideoats grama (*B.*

*curtipendula*), blue grama, hairy grama (*B. hirsuta*), and little bluestem (*Schizachyrium scoparium*) was found in steeper more dissected areas.

Over the last 100 years, the ecosystems once found in Kansas have been drastically altered due to the large scale private agriculture industry. The agriculture industry has developed intensive areas of cultivation and livestock grazing. Today, most of the proposed lease area has been converted to croplands of mainly winter wheat with other small grains, grain sorgum, alfalfa, and other hay crops planted when and where feasible.

## **3.9 Wildlife**

### **3.9.1 Threatened and Endangered Species**

The purpose of the Endangered Species Act (ESA) is to ensure that federal agencies and departments use their authorities to protect and conserve endangered and threatened species. Section 7 of the ESA requires that federal agencies prevent or modify any projects authorized, funded, or carried out by the agencies that are "likely to jeopardize the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of critical habitat of such species."

U.S. Fish and Wildlife Service (USFWS) has no federally-listed endangered, threatened, proposed, and candidate species for Cheyenne County, Kansas per the United States Department of the Interior, Fish and Wildlife Service, Kansas Ecological Services Office County list dated July 2010.

### **3.9.2 Special Status Species**

The Kansas Department of Wildlife, Parks and Tourism has no threatened and endangered species listed for Cheyenne County, Kansas.

### **3.9.3 Migratory Birds**

Executive Order (EO) 13186, 66 Fed. Reg. 3853, (January 17, 2001) identifies the responsibility of federal agencies to protect migratory birds and their habitats, and directs executive departments and agencies to undertake actions that will further implement the Migratory Bird Treaty Act (MBTA). Under the MBTA, incidental, unintentional, and accidental take, killing, or possession of a migratory bird or its parts, nests, eggs or products, manufactured or not, without a permit is unlawful. EO 13186 includes a directive for federal agencies to develop a memorandum of understanding (MOU) with the Service to promote the conservation of migratory bird populations, including their habitats, when their actions have, or are likely to have, a measurable negative effect on migratory bird populations. Whereas the MBTA only protects migratory birds, EO 13186 provides for the protection of both migratory birds and migratory bird habitat.

The NM-201304-001 in Cheyenne County, KS is located within the Bird Conservation Region 19, Central Mixed-Grass Prairie. Twenty-seven birds of conservation concern have been identified in this region. The Benkelman Route Breeding Bird Survey shows seven birds of conservation concern that nest near or in the proposed lease parcel they are as follows: Swainson's hawk, lark bunting, Cassin's sparrow, loggerhead shrike, upland sandpiper, Bell's vireo, and the red-headed woodpecker.

### **3.9.4 Wildlife**

Many species of animals utilize the habitat associated within this lease sale parcel. This lease sale, in and of itself, has no impact on wildlife. Future activities resulting from this lease sale could remove food, cover, and space for wildlife in this area. The more mobile species will move away from the area during the construction, drilling, and well completion phases of this petroleum exploration project to avoid direct mortality, the increase in human presence, and levels of noise. The less mobile species could suffer some mortality during the active construction phase of the project.

### **3.10 Wastes – Hazardous or Solid**

The Resource Conservation and Recovery Act (RCRA) of 1976 established a comprehensive program for managing hazardous wastes from the time they are produced until their disposal. The EPA regulations define solid wastes as any "discarded materials" subject to a number of exclusions. On January 6, 1988, EPA determined that oil and gas exploration, development and production wastes would not be regulated as hazardous wastes under RCRA. The Comprehensive Environmental Response Compensation and Liability Act (CERCLA) of 1980, deals with the release (spillage, leaking, dumping, accumulation, etc.), or threat of a release of hazardous substances into the environment. Despite many oil and gas constituent wastes being exempt from hazardous waste regulations, certain RCRA exempt contaminants could be subject to regulations as hazardous substances under CERCLA.

No hazardous or solid waste materials are known to be present on the proposed lease parcels. Leasing the proposed parcel would not result in any immediate introduction of hazardous and non-hazardous substances.

### **3.11 Mineral Resources**

Minerals occurring in commercial quantities in Kansas include oil, gas, coal, gypsum, salt, zinc, lead, chalk, pumice, commercial quality clays, helium, building stone, limestone, sand and gravel. Petroleum and natural gas are the state's most economically important minerals. Cheyenne County contains over 11,217 acres of split-estate minerals scattered over its northwest half in 37 tracts ranging in size from 40 acres to over 3,800 acres. Within the county, 1,112 wells have been identified (695 gas, 76 oil, 307 abandoned, 34 other). No additional mineral resources (i.e. coal, gravel, sand, salt) are identified within the county.

### **3.12 Socioeconomics and Environmental Justice**

Executive Order 12989, issued on 11 February 1994, addresses concerns over disproportionate environmental and human health impacts on minority and low-income populations. The impetus behind

environmental justice is to ensure that all communities, including minority, low-income or federally recognized tribes, live in a safe and healthful environment.

In 2011, the estimated population of Cheyenne County was 2,718 people, which makes up 0.001% of the State of Kansas total population. Approximately 4.7% of the population identified themselves as a person of Hispanic or Latino origin and 1.5% identified themselves as a person not white or of Hispanic or Latino origin.

The median household income in Cheyenne County is \$31,186 about 37% below the state average of \$49,424. Approximately 13.2% of the population lives at or below the poverty level, which is slightly higher than the 12.4% state-wide average.

## **4.0 Environmental Consequences**

### **4.1 Assumptions for Analysis**

The act of leasing parcels would, by itself, have no impact on any resources in the OFO. All impacts would be linked to as yet undetermined future levels of lease development. The effects of oil and gas leasing in Kansas are analyzed in the Kansas RMP (1991), as amended (pages 105-117). That analysis, which assumes that the impacts from an average well, pipeline and access road would total 4.25 acres of surface disturbance in Kansas is incorporated by reference into this document.

If lease parcels were developed, short-term impacts would be stabilized or mitigated within five years and long-term impacts are those that would substantially remain for more than five years. Potential impacts and mitigation measures are described below.

Cumulative impacts include the combined effect of past projects, specific planned projects and other reasonably foreseeable future actions such as other infield wells being located within these leases. Potential cumulative effects may occur should an oil and gas field be discovered if these parcels are drilled and other infield wells are drilled within these leases or if these leases become part of a new unit. All actions, not just oil and gas development may occur in the area, including foreseeable non-federal actions.

### **4.2 Effects from the No Action Alternative**

Under the No Action Alternative, the proposed parcel totaling 240 acres from the April 2013 lease sale would not be leased. There would be no subsequent impacts from oil and/or gas construction, drilling and production activities. The No Action Alternative would result in the continuation of the current land and resource uses in the proposed lease areas. The No Action Alternative is also used as the baseline for comparison of alternatives.

It is an assumption that the No Action Alternative (no lease option) may result in a slight reduction in domestic production of oil and gas. This would likely result in reduced Federal and state royalty income, and the potential for Federal minerals to be drained by wells on adjacent private or state lands. Consumption is driven by a variety of complex interacting factors including energy costs, energy

efficiency, availability of other energy sources, economics, demography, and weather or climate. If the BLM were to forego leasing and potential development of those minerals, the assumption is the public's demand for the resource would not be expected to change. Instead, the undeveloped resource would be replaced in the short- and long-term by other sources that may include a combination of imports, using alternative energy sources (e.g. wind, solar) and other domestic production. This displacement of supply would offset any reductions in emissions achieved by not leasing the subject tracts in the short-term.

### **4.3.1 Air Resources**

#### **4.3.1.1 Air Quality**

While the act of leasing Federal minerals would produce no impacts to air quality, subsequent exploration/development of the proposed lease could increase air borne soil particles blown from new well pads or roads, exhaust emissions from drilling equipment, compressor engines, vehicles, dehydration and separation facilities coupled with volatile organic compounds during drilling or production activities.

In order to reasonably quantify emissions associated with well exploration and production activities, certain types of information are needed. Such information includes a combination of activity data such as the types of equipment needed if a well were to be completed successfully (e.g. compressor, separator, dehydrator), the technologies which may be employed by a given company for drilling any new wells, area of disturbance for each type of activity (e.g. roads, pads, electrical lines compressor station), number of days to complete each kind of construction, number of days for each phase of the drilling process, type(s), size, number of heavy equipment used for each type of construction (backhoe, dozer, etc.), number of wells of all types (shallow, deep, exploratory, etc.), compression per well (sales, field booster), or average horsepower for each type of compressor. The degree of impact will also vary according to the characteristics of the geological formations from which production occurs. Currently, it is not feasible to directly quantify emissions. What can be said is that emissions associated with oil and gas exploration and production would incrementally contribute to increases in over air quality emissions into the atmosphere.

#### ***Mitigation***

The BLM encourages industry to incorporate and implement best management practices (BMPs), which are designed to reduce impacts to air quality by reducing emissions, surface disturbances, and dust from field production and operations. Typical measures include: adherence to BLM's Notice to Lessees' (NTL) 4(a) concerning the venting and flaring of gas on Federal leases for natural gas emissions that cannot be economically recovered, flared hydrocarbon gases at high temperatures in order to reduce emissions of incomplete combustion; water dirt roads during periods of high use in order to reduce fugitive dust emissions; collocate wells and production facilities to reduce new surface disturbance; implementation of directional drilling and horizontal completion technologies whereby one well provides access to petroleum resources that would normally require the drilling of several vertical wellbores; require that vapor recovery systems be maintained and functional in areas where petroleum liquids are stored; and

perform interim reclamation to reclaim areas of the pad not required for production facilities and to reduce the amount of dust from the pads. In addition, the BLM encourages oil and natural gas companies to adopt proven, cost-effective technologies and practices that improve operational efficiency and reduce natural gas emissions.

#### **4.3.1.2 Climate**

The assessment of GHG emissions, their relationship to global climatic patterns, and the resulting impacts is an ongoing scientific process. It is currently not feasible to know with certainty the net impacts from the proposed action on climate—that is, while BLM actions may contribute to the climate change phenomenon, the specific effects of those actions on global climate are speculative given the current state of the science. The BLM does not have the ability to associate a BLM action's contribution to climate change with impacts in any particular area. The science to be able to do so is not yet available. The inconsistency in results of scientific models used to predict climate change at the global scale coupled with the lack of scientific models designed to predict climate change on regional or local scales, limits the ability to quantify potential future impacts of decisions made at this level and determining the significance of any discrete amount of GHG emissions is beyond the limits of existing science. When further information on the impacts to climate change is known, such information would be incorporated into the BLM's planning and NEPA documents as appropriate.

While the act of leasing Federal minerals would have no impact on climate as a result of GHG emissions, subsequent exploration/development of the proposed lease could have effects on global climate through GHG emissions. However, those effects on global climate change cannot be determined. (Refer to cumulative effects section, 4.15). It is unknown whether the petroleum resources specific to these leases in the Proposed Action are gas or oil or a combination thereof.

Potential impacts of development could include increased airborne soil particles blown from new well pads or roads, exhaust emissions from drilling equipment, compressors, vehicles, and dehydration and separation facilities, as well as potential releases of GHG and VOCs during drilling or potential activities. The amount of increased emissions cannot be quantified at this time since it is unknown how many wells might be drilled, the types of equipment needed if a well were to be completed successfully (compressor, separator, dehydrator, etc.), or what technologies may be employed by the companies drilling any new wells. The degree of impact will vary according to the characteristics of the geologic formations from which production occurs.

Environmental impacts of GHG emissions from oil and gas consumption are not effects of the proposed action as defined by the Council on Environmental Quality (CEQ), and thus are not required to be analyzed under NEPA. GHG emissions from consumption of oil and gas are not direct effects under NEPA because they do not occur at the same time and place as the action. They are also not indirect effects because oil and gas leasing and production would not be a proximate cause of GHG emissions resulting from consumption.

## ***Mitigation***

The EPA's inventory data describes "Natural Gas Systems" and "Petroleum Systems" as the two major categories of total US sources of GHG emissions. The inventory identifies the contributions of natural gas and petroleum systems to total CO<sub>2</sub> and CH<sub>4</sub> emissions (natural gas and petroleum systems do not produce noteworthy amounts of any of the other greenhouse gases). Within the larger category of "Natural Gas Systems", the EPA identifies emissions occurring during distinct stages of operation, including field production, processing, transmission and storage, and distribution. "Petroleum Systems" sub-activities include production field operations, crude oil transportation and crude oil refining. Within the two categories, the BLM has authority to regulate only those field production operations that are related to oil and gas measurement, and prevention of water (via leaks, spills and unauthorized flaring and venting).

The EPA data show that improved practices and technology and changing economics have reduced emissions from oil and gas exploration and development (Inventory of US Greenhouse Gas Emissions and Sinks: 1990-2006). One of the factors in this improvement is the adoption by industry of the BMPs proposed by the EPA's Natural Gas Energy Star program. The OFO will work with industry to facilitate the use of the relevant BMPs for operations proposed on Federal mineral leases where such mitigation is consistent with agency policy.

### **4.3.2 Soils**

While the act of leasing Federal minerals would produce no impacts to soils, subsequent exploration/development of the proposed lease may produce impacts by physically disturbing the topsoil and exposing the substratum soil on subsequent project areas. Direct impacts resulting from the oil and gas construction of well pads, access roads, and reserve pits include removal of vegetation, exposure of the soil, mixing of horizons, compaction, loss of topsoil productivity and susceptibility to wind and water erosion. Wind erosion would be expected to be a minor contributor to soil erosion with the possible exception of dust from vehicle traffic. These impacts could result in increased indirect impacts such as runoff, erosion and off-site sedimentation. Activities that could cause these types of indirect impacts include construction and operation on well sites, access roads, gas pipelines and facilities.

Contamination of soil from drilling and production wastes mixed into soil or spilled on the soil surfaces could cause a long-term reduction in site productivity. Some of these direct impacts can be reduced or avoided through proper design, construction, maintenance and implementation of BMPs.

Additional soil impacts associated with lease development would occur when heavy precipitation causes water erosion damage. When water saturated segment(s) on the access road become impassable, vehicles may still be driven over the road. Consequently, deep tire ruts would develop. Where impassable segments are created from deep rutting, unauthorized driving may occur outside the designated route of access roads.

## **Mitigation**

The operator would stockpile the topsoil from the surface of well pads which would be used for surface reclamation of the well pads. The impact to the soil would be remedied upon reclamation of well pads when the stockpiled soil that was specifically conserved to establish a seed bed is spread over well pads and vegetation re-establishes.

Reserve pits would be re-contoured and reseeded as described in Conditions of Approval (COA) attached to the APD. Upon abandonment of wells and/or when access roads are no longer in service the Authorized Officer (AO) would issue instructions and/or orders for surface reclamation/restoration of the disturbed areas as described in attached COAs. During the life of the development, all disturbed areas not needed for active support of production operations should undergo "interim" reclamation in order to minimize the environmental impacts of development on other resources and uses. Earthwork for interim and final reclamation must be completed within 6 months of well completion or well plugging (weather permitting). The operator shall submit a Sundry Notice and Report on Wells (Notice of Intent), prior to conducting interim reclamation.

Road construction requirements and regular maintenance would alleviate potential impacts to access roads from water erosion damage.

### **4.3.3 Water Resources**

While the act of leasing Federal minerals would produce no impacts to water resources, subsequent exploration/development of the proposed lease may produce impacts. Surface disturbance from the construction of well pads, access roads, pipelines, and utility lines can result in degradation of surface water and groundwater quality from non-point source pollution, increased soil losses, and increased gully erosion.

Potential impacts that would occur due to construction of well pads, access roads, pipelines, and utility lines include increased surface runoff and off-site sedimentation brought about by soil disturbance; increased salt loading and water quality impairment of surface waters; channel morphology changes due to road and pipeline crossings; and possible contamination of surface waters by produced water. The magnitude of these impacts to water resources would depend on the proximity of the disturbance to the drainage channel, slope aspect and gradient, degree and area of soil disturbance, soil character, duration and time within which construction activity would occur, and the timely implementation and success or failure of mitigation measures.

Direct impacts would likely be greatest shortly after the start of construction activities and would likely decrease in time due to natural stabilization, and reclamation efforts. Construction activities would occur over a relatively short period; therefore, the majority of the disturbance would be intense but short lived. Direct impacts to surface water quality would be minor, short-term impacts which may occur during storm flow events.

Petroleum products and other chemicals, accidentally spilled, could result in surface and groundwater contamination. Similarly, possible leaks from reserve and evaporation pits could degrade surface and

groundwater quality. Authorization of the proposed projects would require full compliance with BLM directives and stipulations that relate to surface and groundwater protection.

### ***Mitigation***

The use of a plastic-lined reserve pit, closed systems or steel tanks would reduce or eliminate seepage of drilling fluids into the soil and eventually reaching groundwater. Spills or produced fluids (e.g. saltwater, oil, and/or condensate in the event of a breach, overflow, or spill from storage tanks) could result in contamination of the soils onsite, or offsite, and may potentially impact surface and groundwater resources in the long term. The casing and cementing requirements imposed on proposed wells would reduce or eliminate the potential for groundwater contamination from drilling muds and other surface sources.

## **4.3.4 Floodplains, Wetlands, Riparian Areas**

### **4.3.4.1 Floodplains**

The proposed lease parcel is not located in any mapped floodplains resulting in no impacts to the resource as a result of leasing the Federal minerals or subsequent exploration/development of the proposed parcel.

If floodplain remapping occurs and the parcel is identified within a floodplain at a later date, exploration/development of the proposed parcel may produce impacts. Surface disturbance from the development of well pads, access roads, pipelines, and utility lines can result in impairment of the floodplain values from removal of vegetation, removal of wildlife habitat, impairment of water quality, decreased flood water retention and decreased groundwater recharge.

### ***Mitigation***

Potential mitigation is deferred to site-specific development at the APD stage. If the lease was remapped to fall within a floodplain COAs would be attached to an APD for the purpose of protecting streams, rivers, and floodplains, and specify that surface disturbance would not be allowed within up to 200 meters of the outer edge of 100-year floodplains to protect the integrity of those floodplains.

### **4.3.4.2 Wetlands, Riparian Areas**

While the act of leasing Federal minerals would produce no direct impacts to wetlands or riparian areas; no adverse impacts are expected for wetlands or riparian areas if exploration/development occurred on this lease parcel in the future.

### ***Mitigation***

Potential mitigation is deferred to site-specific development at the APD stage.

The BLM General Requirements (GR) attached to the approved APD and use of standard BMPs should always be used even when direct and indirect impacts are not of concern within the action area of the project.

### **4.3.5 Farmlands, Prime or Unique**

While the act of leasing Federal minerals would produce no impacts to prime or unique farmlands, subsequent exploration/development of the proposed lease would remove the area from production for the life of the well. Direct impacts resulting from the construction of well pads, access roads, and reserve pits can affect the soil properties, increase erosion, and reduce water infiltration potentially affecting the characteristics unique to prime or unique farmlands.

The acres of farmlands lost depend on the amount and type of development proposed during the APD process. It is anticipated that there would be no permanent loss of prime or unique farmland once all reclamation activities are complete. Initial construction and development would result in greater surface disturbance and more area temporarily lost for production. Acres not needed during the production phase would be reclaimed and returned to prime or unique farmlands suitable for production. When the well is no longer productive, the entire site would be reclaimed and returned to prime or unique farmlands.

#### **Mitigation**

During the APD process, efforts would be made to relocate the disturbance onto soils identified as “not prime farmland”; however, if relocation is not an option the following mitigation measure would be placed on the project.

When removing soil, the three major mineral soil horizons (A, B, and C) would be removed and stockpiled independent of one another. All separation would occur prior to implementation of any other construction activities. During the interim and final reclamation phases, the three independently stockpiled soil layers would be replaced in the reverse order that they were removed with the C horizon placed first followed by B, then A.

The soil and water resources mitigation measures would also minimize the impacts to prime or unique farmlands.

### **4.3.6 Heritage Resources**

#### **4.3.6.1 Cultural Resources**

While the act of leasing federal minerals would produce no direct impacts to cultural resources, subsequent development of a lease may produce impacts. To comply with Section 106 of the National Historic Preservation Act, as amended, a cultural resources survey will need to be conducted for all surface disturbance activities related to development of the lease. Direct and indirect effects cannot be predicted without analysis of site-specific development proposals. These proposals would occur at the APD stage of development. Potential impacts at that stage could include increased human activity and

possibility of removal of, or damage to, heritage artifacts. The increase in human activity in the area increases the possibility of irretrievable loss of information pertaining to the heritage of the project region. Conversely, the benefits to heritage resources derived from the future development are the heritage and historic survey that adds to literature, information, and knowledge of cultural resources.

Many cultural resource issues exist beyond the National Historic Preservation Act, such as state and municipal registers of historic sites, National Heritage Areas, National Trails, or other heritage designations. This action does not affect any of these other types of cultural resources.

### ***Mitigation***

Specific mitigation measures, including, but not limited to, possible site avoidance or excavation and data recovery would have to be determined when site-specific development proposals are received.

If human remains are discovered the procedures of Kansas Dead Body Law (article 9 of chapter 65 of Kansas Statutes Annotated) or the NAGPRA shall apply, as appropriate.

### **4.3.6.2 Paleontology**

Direct and indirect effects cannot be predicted without analysis of site-specific development proposals. These proposals would occur at the APD stage of development. Potential impacts at that stage could include increased human activity and possibility of removal of, or damage to, paleontology resources. The increase in human activity in the area increases the possibility of irretrievable loss of information pertaining to the paleontology of the project region. Conversely, a benefit to paleontology resources could occur if potential future development results in a paleontology survey that adds to literature, information, and knowledge of paleontology resources.

### ***Mitigation***

Specific mitigation measures, including, but not limited to, possible site avoidance or excavation and data recording would have to be determined when site-specific development proposals are received.

### **4.3.6.3 Native American Religious Concerns**

The Prairie Band of Potawatomi Nation, Iowa Tribe of Kansas and Nebraska, Kickapoo Tribe of Indians in Kansas were notified of the proposed project.

The proposed action is not known to physically threaten any TCPs, prevent access to sacred sites, prevent the possession of sacred objects, or interfere or otherwise hinder the performance of traditional ceremonies and rituals pursuant to AIRFA or EO 13007. There are currently no known remains that fall within the purview of NAGPRA or ARPA that are threatened by leasing.

### ***Mitigation***

In the event that lease development practices are found in the future to have an adverse effect on TCPs, the operator and the BLM and operator, in consultation with the affected tribe(s) will take action to mitigate or negate those effects. Measures include, but are not limited to physical barriers to protect

resources, relocation of practices responsible for the adverse effects, or other treatments as appropriate.

### **4.3.7 Invasive, Non-native Species**

While the act of leasing Federal minerals would not contribute to the spread or control of invasive or non-native species, subsequent exploration/development of the proposed lease may. Any surface disturbance could establish new populations of invasive non-native species, although the probability of this happening cannot be predicted using existing information. Noxious weed seeds can be carried to and from the project areas by construction equipment, the drilling rig and transport vehicles. At the APD stage, BLM requirements for use of weed control strategies would minimize the potential for the spread of these species.

#### **Mitigation**

Mitigation is deferred to site-specific development at the APD stage. BMPs require that all actions on public lands that involve surface disturbance or reclamation take reasonable steps to prevent the introduction or spread of noxious weeds, including requirements to use weed-free hay, mulch and straw.

### **4.3.8 Vegetation**

While the act of leasing Federal minerals would produce no impacts to vegetative resources, subsequent exploration/development of the proposed lease would have impacts to vegetation. The level of impact depends on the vegetation type, the vegetative community composition, soil type, hydrology, and the topography of the parcels. Surface-disturbing activities could affect vegetation by removing, trampling, or killing the vegetation; churning soils; losing substrates for plant growth; impacting biological crusts; disrupting seedbanks; burying individual plants; reducing germination rates; covering plants with fugitive dust; and generating sites for undesirable weedy species. In addition, development could reduce available forage or alter livestock distribution leading to overgrazing or other localized excess grazing impacts to palatable plant species. If these impacts occurred after seed germination but prior to seed establishment, both current and future generations could be affected.

Vegetation would be lost within the construction areas of pads, roads, and rights of ways. Those areas covered in compacted native substrates, such as pads and roads, would have no vegetation for the life of the well. Interim and final reclamation should result in vegetation establishment in three to five growing season (one to two years) with appropriate techniques used and adequate precipitation. Inadequate precipitation over several growing seasons could result in loss of vegetative cover, leading to weed invasion and deterioration of native vegetation.

#### **Mitigation**

Mitigation is primarily deferred to site-specific development at the APD stage. If potential wells are productive disturbed areas not needed for the production facility would be reclaimed. In the case of non-productive wells, all disturbed areas should be reclaimed through reseeding or vegetative cover

reestablishment. Current policy recommends that these areas be restored with native vegetation in regards to both species and structure. This recommendation is contingent upon the wishes of the surface owner.

## **4.3.9 Wildlife**

### **4.3.9.1 Threatened and Endangered Species**

While the act of leasing Federal minerals produces no impacts to Threatened and Endangered Species, subsequent exploration/development of the proposed parcel may produce impacts. Surface disturbance from the development of well pads, access roads, pipelines, and utility lines can result in removal of wildlife habitat.

Protective stipulation WO-ESA-7 would be attached to any lease of a tract which falls within an area of potential wildlife habitat. WO-ESA-7 states that, "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."

#### ***Mitigation***

The Wildlife Resource General Conditions of Approval (WRGCOAs) included in an approved APD and use of standard Best Management Practices (BMPs) should always be used to provide extra measures of protection to general wildlife populations and habitats in the area. Impacts to the wildlife resource component of the environment can be avoided or minimized by adopting the WRGCOAs and BMPs.

### **4.3.9.2 Special Status Species**

While the act of leasing Federal minerals would produce no direct impacts to special status species, subsequent development of a lease may produce impacts. Impacts could result from increased habitat fragmentation, noise, or other disturbance during development.

#### ***Mitigation***

The Wildlife Resource General Conditions of Approval (WRGCOAs) included in an approved APD and use of standard Best Management Practices (BMPs) should always be used to provide extra measures of protection to general wildlife populations and habitats in the area. Impacts to the wildlife resource component of the environment can be avoided or minimized by adopting the WRGCOAs and BMPs.

#### **4.3.9.3 Migratory Birds**

While the act of leasing Federal minerals produces no impacts to migratory birds, subsequent exploration/development of the proposed parcel may produce impacts. Surface disturbance from the development of well pads, access roads, pipelines, and utility lines can result in an impact to migratory birds and their habitat.

#### ***Mitigation***

Per the Memorandum of Understanding between BLM and the USFWS, entitled “To Promote the Conservation of Migratory Birds,” the following temporal and spatial conservation measures must be implemented as part of the Conditions of Approval with any permit to drill:

- 1) Avoid any take of migratory birds and/or minimize the loss, destruction, or degradation of migratory bird habitat while completing the proposed project or action.
- 2) If a proposed project or action includes a reasonable likelihood that take of migratory birds will occur, then complete actions that could take migratory birds outside of their nesting season. This includes clearing or cutting of vegetation, grubbing, etc. Strive to complete all disruptive activities outside the peak of migratory bird nesting season to the greatest extent possible.
- 3) If no migratory birds are found nesting in proposed project or action areas immediately prior to the time when construction and associated activities are to occur, then the project activity may proceed as planned.

Additionally, the Wildlife Resource General Conditions of Approval (WRGCOAs) #4 (Burying Transmission Lines) and Notice to Lessees (NTL) 96-01-TDO (Modification of Oil and Gas Facilities to Minimize Bird and Bat Mortality) address measures designed to protect migratory birds from accidental deaths associated with power line collisions/electrocutions, open-vent exhaust stacks and open pits and tanks.

#### **4.3.9.4 Wildlife**

The types and extent of impacts expected from oil and gas development to wildlife species and habitats from development are similar to those described in the 4.9 Special Status Species Section. Although reclamation and restoration efforts for surface disturbance could provide for the integrity of other resources, these efforts may not always provide the same habitat values (e.g. structure, composition, cover, etc.) in the short or in some instance, the long-term in complex vegetative community types (e.g., shrub oak communities). The short-term negative impact to wildlife would occur during the construction phase of the operation due to noise and habitat destruction.

In general, most wildlife species would become habituated to the new facilities. For other wildlife species with a low tolerance to activities, the operations on the well pad would continue to displace wildlife from the area due to ongoing disturbances such as vehicle traffic, noise and equipment maintenance. The conditions of approval would alleviate most losses of wildlife species, such as; fencing the reserve pits, netting storage tanks, installation or other modifications of cones on separator stacks, and timing stipulations. The magnitude of above effects would be dependent on the rate and location of

the oil and gas development, but populations could likely not recover to pre-disturbance levels until the activity was completed and the vegetative community restored.

### **Mitigation**

Measures would be taken to prevent, minimize, or mitigate impacts to fish and wildlife animal species from exploration and development activities. Prior to authorization, activities would be evaluated on a case-by-case basis, and the project would be subject to mitigation measures. Mitigation could potentially include rapid revegetation, noise restrictions, project relocation, or pre-disturbance wildlife species surveying.

### **4.3.10 Wastes – Hazardous or Solid**

While the act of leasing Federal minerals would produce no impacts on the environment from hazardous or solid wastes, subsequent exploration/development of the proposed lease could have result in the introduction of hazardous substances to the site. Hazardous substances may be produced, used, stored, transported or disposed of as a result of the project. Properly used, stored, and disposed of hazardous and non-hazardous substances greatly decreases the potential for any impact on any environmental resources. One way operators and the BLM ensure hazardous and non-hazardous substances are properly managed in through the preparation of a Spill Prevention, Control, and Countermeasure (SPCC) plan.

### **Mitigation**

Specific mitigation is deferred to the APD process. The following measures are common to most projects: all trash would be placed in a portable trash cage and hauled to an approved landfill, with no burial or burning of trash permitted; chemical toilets would be provided for human waste; fresh water zones encountered during drilling operations would be isolated by using casing and cementing procedures; a berm or dike would enclose all production facilities if a well is productive; and all waste from all waste streams on site would be removed to an approved disposal site.

### **4.3.11 Mineral Resources**

While the act of leasing Federal minerals would produce no impacts to mineral resources, subsequent exploration/development of the proposed lease could impact the production horizons and reservoir pressures. If production wells are established, the resources allotted to the wells would eventually be depleted. The amount and location of direct and indirect effects cannot be predicted until site-specific development information is available typically during the APD stage.

The proposed lease parcel does not appear to conflict with other mineral resources such as coal, sand, gravel, or salt resulting in no impacts to these resources.

### **Mitigation**

Mitigation is deferred to site-specific development at the APD stage. Spacing orders and allowable production orders are designed to conserve the oil and/or gas resource and provide maximum recovery.

### 4.3.12 Socioeconomics and Environmental Justice

No minority or low income populations would be directly affected in the vicinity of the proposed lease parcel. Indirect impacts could include an increase in overall employment opportunities related to the oil and gas and service support industry in the region, as well as the economic benefits to State and County governments related to royalty payments and severance taxes. Other impacts could include a small increase in activity and noise disturbance in areas used for agriculture and recreational activities. However, these impacts would apply to all land users in the area.

#### Mitigation

Mitigation is deferred to site-specific development at the APD stage.

### 4.13 Cumulative Effects

The NMSO manages approximately 41 million acres of Federal mineral estate. Of the 41 million acres, 35 million acres are available for oil and gas leasing. Approximately 17% of the 35 million acres is currently leased (73% of the leases are in production and 63% of the lease acres are in production). The NMSO received 100 parcel nominations (56,854.86 acres) for consideration in the April 2013 Oil & Gas Lease Sale, and is proposing to lease 55 (35,707.88 acres) of the 100 parcels. If these 100 parcels were leased, the percentage of Federal minerals leased would not change. The Carlsbad, Roswell, Farmington and other Oklahoma Field Office (Oklahoma and Texas) parcels are analyzed under separate EAs.

**Table 5A. Actual - Acres of Federal Minerals/Acres Available/Acres Leased:**

State	Federal O&G Mineral Ownership	Acres Available	Acres Leased	Percent Leased
KS	744,000	614,586	127,414	21%
NM	34,774,457	29,751,242	5,023,215	17%
OK	1,998,932	1,668,132	330,800	20%
TX	3,404,298	3,013,207	391,091	13%
Totals/Average	40,921,687	35,058,167	5,862,520	17%

**Table 5B. Parcels Nominated & Offered in the January 2013 Oil & Gas Lease Sale:**

Field Office	No. of Nominated Parcels	Acres of Nominated Parcels	No. of Parcels to be Offered	Acres of Parcels to be Offered
Carlsbad	11	6,683.29	6	4,121.20
Roswell	1	120.00	1	120.00
Farmington	53	23,913.74	14	5413.60
Kansas	1	240.00	1	240.00
Texas	29	25,118.75	29	25,118.75
Oklahoma	5	779.08	4	694.33
Totals	100	56,854.86	55	35,707.88

**Table 5C. Foreseeable - Acres of Federal Minerals/Acres Available/Acres Leased:**

State	Federal O&G Mineral Ownership	Acres Available	Acres Leased	Percent Leased
KS	744,000	614,586	127,654	21%
NM	34,774,457	29,751,242	5,053,932	17%
OK	1,998,932	1,668,132	331,579	20%
TX	3,404,298	3,013,207	416,210	14%
Totals/Average	40,921,687	35,058,167	5,929,375	17%

The cumulative impacts fluctuate with the gradual reclamation of well abandonments and the creation of new additional surface disturbances in the construction of new access roads and well pads. The on-going process of restoration of abandonments and creating new disturbances for drilling new wells gradually accumulates as the minerals are extracted from the land. Preserving as much land as possible and applying appropriate mitigation measures will alleviate the cumulative impacts.

Analysis of cumulative impacts for reasonably foreseeable development of oil and gas wells in Kansas was analyzed in the Kansas RMP (1991), as amended (pg. 105-118). Potential development of all available federal minerals in Kansas including those in the proposed lease parcels was included as part of the analysis. Total surface disturbance projected by the plan was based on an estimated 20 Federal wells being drilled annually in Kansas with an estimated 85 acres of disturbance. Over the last 10 years there have only been two to three Federal wells drilled each year.

More than 100 years of oil and gas development in Kansas has resulted in an extensive infrastructure of existing roads and pipelines. Kansas has approximately 32,000 active wells. The BLM’s records indicate a total of 639 active wells on Federal leases in the state. Impacts from this development would remain on the landscape until final abandonment and reclamation of facilities occurs as wells are plugged when they are no longer economically viable.

**4.13.1 Effects on Air Resources**

The following analysis of cumulative impacts of the proposed action on air quality will be limited to Cheyenne County, KS. The cumulative impacts of GHG emissions and their relationship to climate change are evaluated at the national and global levels in the Air Quality Technical Report (USDI 2011).

***4.13.1.1 Effects of Other Past, Present, and Reasonably Foreseeable Actions on Air Resources***

The primary activities that contribute to levels of air pollutant and GHG emissions in Cheyenne County are predominately combustible engines of road and non-road, diesel and gasoline vehicles and equipment. The Air Quality Technical Report includes a description of the varied sources of national and regional emissions that are incorporated here to represent the past, present and reasonably foreseeable impacts to air resources (USDI BLM 2011). It includes a summary of emissions on the national and regional scale by industry source. Sources that are considered to have notable contributions to air

quality impacts and GHG emissions include electrical generating units, fossil fuel production (nationally and regionally) and transportation.

#### ***4.13.1.2 Cumulative Effects of the Proposed Action on Air Quality***

The very small increase in emissions that could result from approval of the proposed action would not result in Cheyenne County exceeding the NAAQS for any criteria pollutants. The applicable regulatory threshold for HAPs is the oil and gas industry National Emissions Standards for Hazardous Air Pollutants, which are currently under review by the EPA. The emissions from the proposed well are not expected to impact the 8-hour average ozone concentrations, or any other criteria pollutants in the county.

#### ***4.13.1.3 Cumulative Effects of the Proposed Action on Climate Change***

The very small increase in GHG emissions that could result from approval of the proposed action would not produce climate change impacts that differ from the No Action Alternative. This is because climate change is a global process that is impacted by the sum total of GHGs in the Earth's atmosphere. The incremental contribution to global GHGs from the proposed action cannot be translated into effects on climate change globally or in the area of this site-specific action. It is currently not feasible to predict with certainty the net impacts from the proposed action on global or regional climate.

The Air Quality Technical Report (USDI 2011) discusses the relationship of past, present and future predicted emissions to climate change and the limitations in predicting local and regional impacts related to emissions. It is currently not feasible to know with certainty the net impacts from particular emissions associated with activities associated with Federal actions.

## **5.0 Consultation/Coordination**

This section includes the resource specialists located within the OFO that specifically participated and provided input in the lease parcel review process and the development of this EA document.

<b>ID Team Member</b>	<b>Title</b>	<b>Organization</b>
Ryan Howell	Archaeologist	BLM
Becky Peters	Wildlife Biologist	BLM
Pat Stong	Geologist	BLM
Melinda Fisher	Natural Resource Specialist	BLM
Galen Schwertfeger	Environmental Specialist	BLM
Gary McDonald	Environmental Specialist	BLM
Larry Levesque	Planning and Environmental Coordinator	BLM

On 22 October 2012 a briefing for the BLM NM State Director was held at the Oklahoma Field Office to review Field Office recommendations for nominated parcels.

## **5.1 Public Involvement**

The nominated parcels, along with the appropriate stipulations from the Kansas RMP (1991), as amended were posted online for a two week review period beginning October 29, 2012. No comments

were received. This EA will be available for public review and comment for 30 days beginning December 3, 2012. Any comments provided prior to the lease sale will be considered and incorporated into the EA as appropriate.

## 6.0 References

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US Census Bureau. (2012). State and County Quick Facts: Data derived from Population Estimates, American Community Survey, Census of Population and Housing, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits, Consolidated Federal Funds Report.  
<http://quickfacts.census.gov/qfd/states/20/20023.html>.

USDI (US Department of the Interior, Bureau of Land Management [BLM]). 2007. Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development: The Gold Book (4<sup>th</sup> ed), P-417.

USDI (BLM). July 1991. Kansas Resource Management Plan and Final Environmental Impact State. Tulsa, Oklahoma.

USDI (BLM). September 1991. Record of Decision and Final Kansas Resource Management Plan. Tulsa, Oklahoma.

USDI (BLM). 2011. Air quality Technical Report. New Mexico State Office.  
[http://www.blm.gov/nm/st/en/prog/more/air\\_resources/air\\_resources\\_technical.html](http://www.blm.gov/nm/st/en/prog/more/air_resources/air_resources_technical.html).

US Government Accountability Office Report "Climate Change, Agencies Should Develop Guidance for Addressing the Effects on Federal Land and Water Resources" GAO-07-863, August 2007 (1st paragraph, 1st page, GAO Highlights) at: <http://www.gao.gov/news.items/d07863.pdf>.

## **7.0 Authorities**

Code of Federal Regulations (CFR)

40 CFR All Parts and Sections inclusive Protection of Environment, Revised as of January 1, 2001.

43 CFR All Parts and Sections inclusive – Public Lands: Interior. Revised as of October 1, 2000.

US Department of the Interior, Bureau of Land Management and Office of the Solicitor (editors). 2001. The Federal Land Policy and Management Act, as amended. Public Law 94-579.

## Appendix 1. April 2013 Oil & Gas Lease Sale – Oklahoma Field Office – Kansas

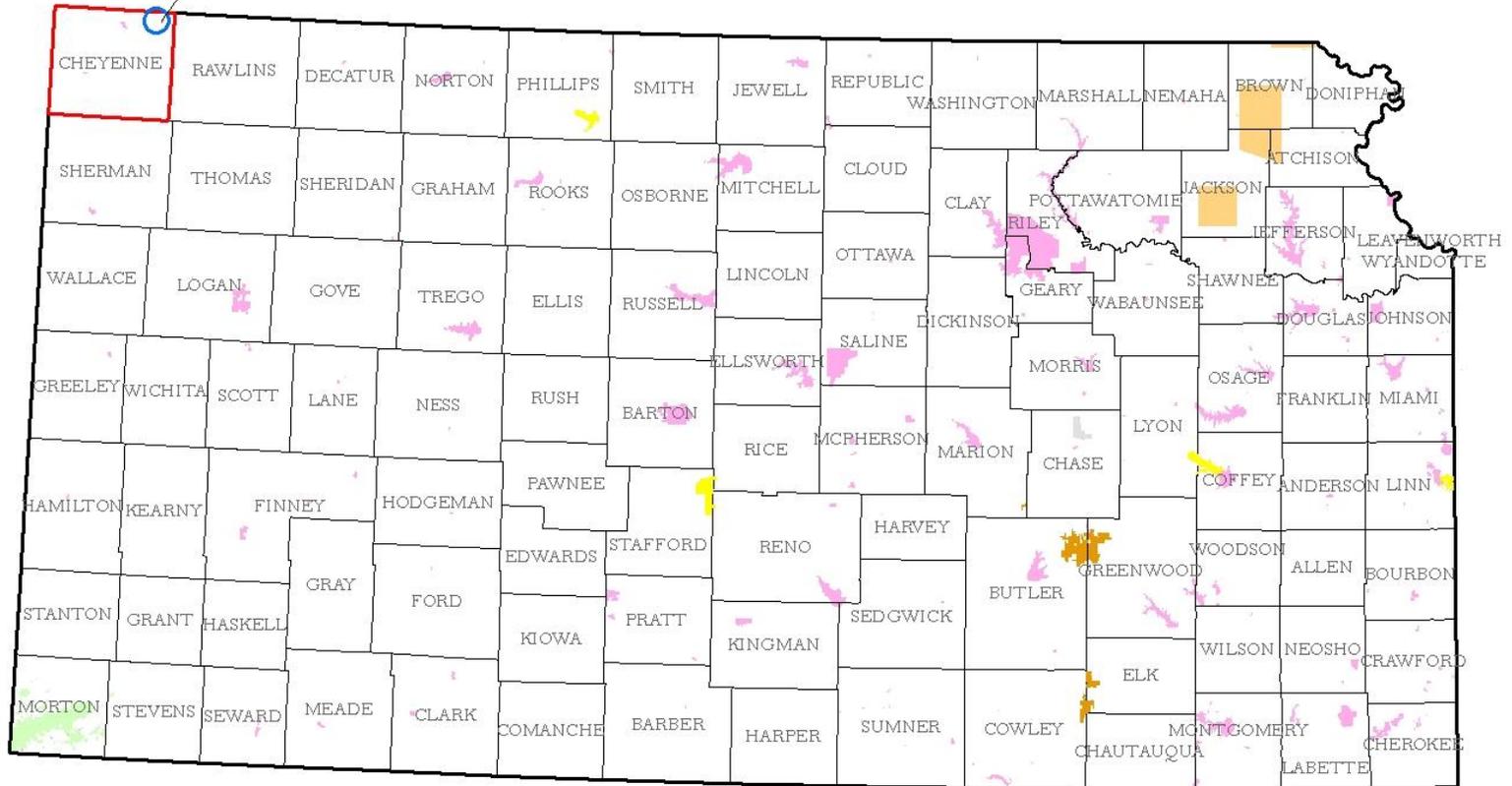
Parcels and applicable stipulations are presented in the table below.

Parcel	Stipulations	Acres
<p><b><u>NM-201304-01</u></b> T.0010S, R.0370W, 06 PM, KS Section 016 NE, W2SE Cheyenne County Tulsa FO KSW 45913</p>	<p>WO-ESA-7: Endangered Species Act Section 7 Consultation WO-NHPA: National Historic Preservation Act Consultation</p>	<p>240.000</p>

**Appendix 2. Kansas Nominated Lease Sale Parcel.**

**BLM Competitive Oil and Gas Lease Sale  
April 17, 2013  
Kansas Nominated Lease Sale Parcel**

KSNM 201304 001



-  State Boundary
-  County Boundary
-  Nominated Lease Sale Parcel
-  Relevant County
-  USFWS
-  BLM Wild Horse & Burro Pasture
-  Native American Reservations
-  Cimarron National Grassland
-  NPS
-  Dept. of Defense

Scale 1: 2,000,000



0 25 50 100 Miles

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No warranty is made by the Bureau of Land Management as to the accuracy, reliability, or completeness of these data for individual use or aggregate use with other data, or for purposes not intended by BLM. Spatial information may not meet National Map Accuracy Standards. This information may be updated without notification.

Oklahoma Field Office  
GLE/BJM  
October 2012

## **Appendix 3. Biological Evaluation.**



# United States Department of the Interior

BUREAU OF LAND MANAGEMENT  
OKLAHOMA FIELD OFFICE  
7906 E. 33<sup>rd</sup> St., Suite 101  
TULSA, OK 74145-1352  
<http://www.blm.gov>



RE: Biological Evaluation for the April, 2013 Federal Oil & Gas Lease Sale

Cheyenne County, Kansas (DOI-BLM-NM-040-2013-001).

The Bureau of Land Management's (BLM) environmental assessment (EA) for this project contains all pertinent information regarding the specific characteristics of the proposed leasing of federal oil & gas minerals. The purpose of this report is to document BLM's "No Effect" for threatened & endangered species based on the administrative action on making the proposed parcels available for leasing.

### *Threatened and Endangered Species*

The purpose of the Endangered Species Act (ESA) is to ensure that federal agencies and departments use their authorities to protect and conserve endangered and threatened species. Section 7 of the ESA requires that federal agencies prevent or modify any projects authorized, funded, or carried out by the agencies that are "likely to jeopardize the continued existence of any endangered species or threatened species, or result in the destruction or adverse modification of critical habitat of such species."

U.S. Fish and Wildlife Service (USFWS) has no federally-listed endangered, threatened, proposed, and candidate species for Cheyenne County, Kansas per the United States Department of the Interior, Fish and Wildlife Service, Kansas Ecological Services Office County list dated July 2010. Additionally, the Kansas Department of Wildlife, Parks and Tourism has no threatened and endangered species listed for Cheyenne County, Kansas.

### *Wetland and Riparian Habitat*

Wetland habitats provide important wintering and migrational habitat for Central Flyway Birds. Wetlands also provide a link between land and water and are some of the most productive ecosystems in the world. Two executive orders, both issued in 1977 under the Carter Administration, pertain to consultation and avoidance of wetland impacts. Executive Order (EO) 11990 on the Protection of Wetlands provides opportunity for early review of Federal agency plans regarding new construction in wetland areas. It also urges all Federal agencies to avoid supporting, assisting, or financing new construction in wetlands unless there is "no practicable alternative. EO 11988: Floodplain Management - an order given by President Carter in 1977 to avoid the adverse impacts associated with the occupancy and modification of floodplains.

The USFWS National Wetlands Inventory Mapper showed no wetland or riparian habitat within 300' of this proposed lease sale parcel. The parcel is located in an agriculture field. It is understood that wetland and riparian habitats will not be impacted by the sale of this lease parcel.

*Migratory Birds*

Executive Order (EO) 13186, 66 Fed. Reg. 3853, (January 17, 2001) identifies the responsibility of federal agencies to protect migratory birds and their habitats, and directs executive departments and agencies to undertake actions that will further implement the Migratory Bird Treaty Act (MBTA). Under the MBTA, incidental, unintentional, and accidental take, killing, or possession of a migratory bird or its parts, nests, eggs or products, manufactured or not, without a permit is unlawful. EO 13186 includes a directive for federal agencies to develop a memorandum of understanding (MOU) with the Service to promote the conservation of migratory bird populations, including their habitats, when their actions have, or are likely to have, a measurable negative effect on migratory bird populations. Whereas the MBTA only protects migratory birds, EO 13186 provides for the protection of both migratory birds and migratory bird habitat.

The NM-201304-001 in Cheyenne County, KS is located within the Bird Conservation Region 19, Central Mixed-Grass Prairie. Twenty-seven birds of conservation concern have been identified in this region. The Benkelman Route Breeding Bird Survey shows seven birds of conservation concern that nest near or in the proposed lease parcel they are as follows: Swainson's hawk, lark bunting, Cassin's sparrow, loggerhead shrike, upland sandpiper, Bell's vireo, and the red-headed woodpecker.

The table below shows the preferred nesting and/or habitat for each species.

<b>Breeding Bird Survey Benkelman Route</b>		
<b>Located near the lease sale parcel</b>		
<b>Wetland Associated</b>	<b>Grasslands</b>	<b>Woodland or Scrub</b>
	Swainson's hawk	Bell's vireo
	Lark bunting	Red-headed woodpecker
	Cassin's sparrow	
	Loggerhead shrike	
	Upland sandpiper	

Therefore, per the MOU between BLM and the Service, entitled “To Promote the Conservation of Migratory Birds,” the following temporal and spatial conservation measures must be implemented as part of the Conditions of Approval with a permit to drill:

- 4) Avoid any take of migratory birds and/or minimize the loss, destruction, or degradation of migratory bird habitat while completing the proposed project or action.
- 5) If the proposed project or action includes a reasonable likelihood that take of migratory birds will occur, then complete actions that could take migratory birds outside of their nesting season. This includes clearing or cutting of vegetation, grubbing, etc. The primary nesting season for migratory birds varies greatly between species and geographic location, but generally extends from early April to mid-July. However, the maximum time period for the migratory bird nesting season can extend from early February through late August. Strive to complete all disruptive activities outside the peak of migratory bird nesting season to the greatest extent possible.
- 6) If no migratory birds are found nesting in proposed project or action areas immediately prior to the time when construction and associated activities are to occur, then the project activity may proceed as planned.

Additionally, the proposed lease sale parcels and all subsequent activities resulting from it are subject to all state and federal regulations and proposed lease stipulations designed to reduce environmental risks. Lease stipulations are legally binding restrictions and operating requirements that become part of lease contracts

This lease sale, in and of itself, has no impact on threatened or endangered species, wetland or migratory birds to analyze or consult on. Additionally, site-specific analysis and mitigation will occur once the parcels are leased and an Application for Permit to Drill is submitted.

Based on all the information discussed above, the biological determination of effect for federally listed species regarding leasing of these parcels is “**NO EFFECT**”.

\_\_\_\_\_ ; 10/22/2012 .  
Becky Peters Wildlife Biologist Date