

## **Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development**

### **The Gold Book, Fourth Edition, Revised 2007**

## **Exploration and Development on Split Estates**

### **Non-Federally Owned Surface/Federally Owned Minerals**

The operator must make a good faith effort to notify the private surface owner before entering private surface to stake a well location and access road or to conduct cultural or biological surveys. Each APD, NOS, or Sundry Notice permitting new surface disturbing activities must contain the name, address, telephone number, and e-mail address (if available), of the private surface owner.

The BLM will invite the surface owner to participate in the onsite and final reclamation inspections and will take into consideration the needs of the surface owner when reviewing the APD and reclamation plans and when approving final abandonment and reclamation. The BLM will offer the surface owner the same level of surface protection that the BLM provides on Federal surface. The BLM will not apply standards or conditions that exceed those that would normally be applied to Federal surface, even when requested by the surface owner.

Prior to approval of the APD (or Sundry Notice to conduct new surface disturbing activities), the operator must certify as part of the complete application that a good faith effort had been made to reach a surface use agreement with the private surface owner and that an agreement was reached or that it failed. If the surface owner and operator fail to reach an agreement, the operator must file a bond with the BLM (\$1,000 minimum) for the benefit of the surface owner to cover compensation, such as for reasonable and foreseeable loss of crops and damages to tangible improvements. Prior to approving the APD, the BLM will advise the surface owner of the right to object to the sufficiency of the bond and will review the value of the bond if the surface owner objects. The BLM will either confirm the current bond amount or establish a new amount. Once the operator has filed an adequate bond, the BLM may approve the APD. Following APD approval, the operator and the surface owner may appeal the BLM's final decision on the bond amount.

The operator must negotiate in good faith with the surface owner. Negotiating in good faith provides a forum through which the operator and surface owner can discuss the preferences and needs of both the surface owner and the operator. In addressing those needs, the operator may be able to modify the development proposal to both minimize damage to the surface owner's property while reducing reclamation and surface damage costs. For example, operator costs can be minimized by placing roads and facilities in locations that meet the surface owner's long-term development plans for the property, thereby lessening the future reclamation obligations of the operator.

The surface use agreement between the surface owner and the operator is confidential. However, the APD Surface Use Plan of Operations must contain sufficient detail about any aspects

of the agreement necessary for NEPA documentation and to determine that the operations will be in compliance with laws, regulations, Onshore Orders, and agency policies.

When the operator submits its Surface Use Plan of Operations to the BLM, the operator must make a good faith effort to provide a copy to the surface owner. Following APD approval, the operator must also provide a copy of the Conditions of Approval to the surface owner. In addition, the operator must make a good faith effort to provide a copy of any proposal involving new surface disturbance to the private surface owner.