

**United States Department of the Interior
Bureau of Land Management
Montana / Dakotas State Office
5001 Southgate Drive, Billings MT 59101**

**Decision Record
Environmental Assessment
DOI-BLM-MT-0000-2018-0007-EA**

**Oil and Gas Lease Parcel Sale
March 25-27, 2019**

Billings, Glasgow, Havre, Miles City, and South Dakota Field Offices

Decision

It is my decision to select Alternative C for the March 25-27, 2019 Oil and Gas Lease Parcel Sale. Under Alternative C, the BLM will offer 305 parcels for sale, with standard federal lease terms and conditions, and required stipulations and/or lease notices as identified in Appendix A of the Environmental Assessment (EA); DOI-BLM-MT-0000-2018-0007-EA. The 305 parcels encompass approximately 166,885 Federal mineral acres in Carbon, Musselshell, Blaine, Toole, Valley, Big Horn, Carter, Custer, Fallon, Powder River, Richland, Roosevelt, Rosebud, and Wibaux Counties in Montana and Harding County, South Dakota (Billings, Glasgow, Havre, Miles City, Montana Field Offices and US Forest Service Buffalo Gap National Grassland, South Dakota).

By selecting Alternative C, I am deferring 13480.8 acres, including:

- Eleven parcels in Beaverhead County (9,539.42 acres) and one parcel in Madison County (398.69 acres) because additional analysis is needed to determine the appropriate level of protection for the area.
- One parcel in Bowman County, ND (40 acres) and three parcels in Harding County, SD (1320.0 acres) because off-site development would negatively affect active sage-grouse leks and additional coordination is needed with North and South Dakota to address resource concerns.
- One parcel and parts of four others in Valley County, MT (2182.69 acres) to protect a migratory corridor designated by the State of Montana as a Connectivity Area.
- Note deferred acres listed here were tabulated using the legal description acres

BLM



identified in Appendix A, and may differ from that using GIS acres noted in the EA. For example, the Executive Summary and Chapter 2 of the EA report approximately 166,999 Federal Mineral Acres for Alternative C; legal acres from Appendix B is 166,885 acres).

The BLM will offer the 305 lease parcels at a competitive lease sale on March 25-27, 2019 with the stipulations described in Appendix A and B of the EA. The BLM will issue competitive leases for parcels sold at the sale; BLM may issue noncompetitive leases for applications filed during the 2-year period following the sale.

Authorities

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

Compliance and Monitoring

Should the parcels be developed, monitoring may be required and would be addressed and analyzed under future NEPA documentation.

Terms, Conditions, and Stipulations

Standard terms and conditions, as well as the lease notices and stipulations identified by parcel in Appendix A and B of the EA, would apply and be attached to all of the parcels.

Plan Conformance and Consistency

BLM Surface and Split Estate Parcels

The 302 BLM surface / split estate parcels covering approximately 166,445 acres (166,885-440) are located in areas designated open to oil and gas leasing in the Billings, HiLine, or Miles City RMPs, subject to standard lease terms, moderate constraints such as stipulations that require timing limitations, or major constraints such as stipulations that prohibit surface occupancy and use. The BLM applied stipulations to the 302 lease parcels consistent with management decisions in the applicable RMPs (Appendix A), including the 2015 Billings, HiLine, and Miles City RMPs, and associated Records of Decision and Final Environmental Impact Statements (FEISs).

US Forest Service Parcels

Three parcels in Fall River County, SD comprising 440 acres are private surface within the administrative boundary of the Buffalo Gap National Grassland (SDM 97300-TP, TT, and TN). The BLM applied stipulations to these parcels consistent with the June 13, 2002 Record of Decision for Oil and Gas Leasing on the Nebraska National Forest / Buffalo Gap National Grassland, Fall River County, South Dakota. The BLM was a cooperating agency on the Oil and Gas Leasing FEIS, and the ROD states:

The BLM will offer lands for lease and issue leases for lands within the west half of Fall River County, South Dakota, on the Buffalo Gap National Grassland subject to stipulations required by the Regional Forester in Alternative 3 of the FEIS, in accordance with the regulations at 43, CFR 3101.7-2(a).

The BLM will make all (approximately 58,720 acres) non-federal surface/federal mineral (split estate) lands within the administrative boundary of the previously described study area available for oil and gas leasing. These lands will be offered for lease, and leases will be issued subject to the terms and conditions identified in the selected alternative for the FEIS (Alternative 3) with a slight modification for paleontology resources...

Alternatives Considered

No Action. The No Action Alternative (Alternative A) would exclude all 322 lease parcels from the competitive oil and gas lease sale. Surface management would remain the same and any ongoing oil and gas development would continue on surrounding Federal, private, and State leases.

Proposed Action. The Proposed Action (Alternative B) would be to offer for sale 322 lease parcels covering approximately 180,366 Federal mineral acres for oil and gas leasing, with standard federal lease terms and conditions, and required stipulations and/or lease notices as identified in Appendix A of the EA. The 322 parcels includes 76 parcels moved from the December 2018 sale and 233 parcels moved from the June 2018 sale due to litigation. The BLM identified applicable lease stipulations (as required by Title 43 Code of Federal Regulations 3131.3) to individual parcels to address specific resource concerns and ensure consistency with the RMPs.

Alternative C. The Selected Action (Alternative C) would be to offer for sale 305 parcels covering approximately 166,885 Federal mineral acres for oil and gas leasing, with standard federal lease terms and conditions, and required stipulations and/or lease notices as identified in Appendix A of the EA. The stipulations assigned for Alternative B were carried forward to Alternative C. The parcels are located in the Billings, Glasgow, Havre, Miles City Field Offices and within the administrative boundary of the Buffalo Gap National Grassland.

Alternative C was developed based upon consideration of public comment submitted during the comment periods described below, and upon further consideration of relevant science and analysis of resource concerns. Compared to Alternative B, Alternative C would defer eleven parcels in Beaverhead County, one parcel in Madison County, one parcel in Bowman County ND, three parcels in Harding County, SD, and one parcel and parts of four others in Valley County, MT.

Public Comments

On October 11, 2018, the BLM initiated a scoping comment period by uploading project

information to the BLM's NEPA e-Planning website, and mailing notices to interested parties (including private surface owners), tribes, and local, state, and federal agencies.

On November 20, 2018, the BLM posted the EA (DOI-BLM-MT-0000-2018-0007-EA) and a draft unsigned Finding of No Significant Impact (FONSI) to the e-Planning website for a 30-day public review and comment period (November 20-December 21, 2018). The BLM also mailed or emailed a notice to interested parties that the EA was available for review.

On January 31, 2019, the BLM posted an updated EA, response to comments, and unsigned FONSI to the e-Planning website to initiate a 30-day protest period.

The BLM received nine written comments during the scoping period and approximately 95 written comments during the EA comment period for the March 2019 Oil and Gas Lease Sale. The BLM also received a high volume of comments for the December 2018 Lease Sale (of which, 76 parcels in sage-grouse habitat were moved to the March 2019 sale). The BLM reviewed and considered all of the comments that were submitted, and modified the EA in response to substantial public comments. Appendix F of the EA provides a summary of the comments as well as the BLM response. The updated EA includes analysis of Alternative C.

Rationale for the Decision

My decision to approve Alternative C, is based on the following: 1) consistency with the applicable resource management plans; 2) national policy; 3) agency statutory requirements; 4) relevant resource issues; 5) application of stipulations that are incorporated as design criteria to avoid or minimize environmental impacts, and 6) public comment.

1. **Resource Management Plan.** This decision is in conformance with 2015 Rocky Mountain Region Record of Decision (ROD), 2015 Billings, HiLine, and Miles City Approved Resource Management Plans and the associated Final EISs, and the June 13, 2002 Record of Decision for Oil and Gas Leasing and Revised Land and Resource Management Plan for the Nebraska National Forest/Buffalo Gap National Grassland. Each of these plans provide opportunities for responsible oil and gas development. All of the parcels are located in areas designated open to oil and gas leasing subject to standard lease terms, moderate constraints such as stipulations that require timing limitations, or major constraints such as stipulations that prohibit surface occupancy and use. Stipulations were applied to all of the lease parcels consistent with the requirements of each plan.
2. **National Policy.** BLM Manual Section 3120 sets forth the policy and procedures required for competitive oil and gas leasing in accordance with the Federal Onshore Oil and Gas Leasing Reform Act of December 22, 1987, and the regulations in the Competitive Leases Rule, 43 CFR Subpart 3120 (2011). It is the Bureau of Land Management's (BLM) policy to encourage the orderly development of Federal onshore oil and gas resources by offering lands for oil and gas leasing by competitive oral bidding when eligible lands are available. It is also BLM's policy to exercise its discretionary authorities, including its oil and gas leasing authority, through the use of an informed, deliberative process that includes:
 - Communication with the public, tribal governments, and Federal, state, and local agencies;

- Consideration of current science and other available data;
- Compliance with existing laws, regulations, and policies; and
- Consideration of important resources and values.

My decision to offer 305 parcels in a lease sale is tiered the analysis in the 2015 Record of Decision and Approved Resource Management Plan Amendments for the Rocky Mountain Region including North Dakota, and the Approved Resource Management Plans for Billings, HiLine, Miles City, and South Dakota, and associated FEISs. My decision is further supported by the analysis in the Oil and Gas Lease Parcel Sale, March 25-27, 2019 Environmental Assessment. The EA included a public participation process that included the opportunity for public comment through a scoping and EA comment period, and coordination with other state, federal, and tribal resource management agencies. The EA describes the effects of three alternatives, including no action.

3. **Statutory Requirements:** My decision to offer 305 parcels for lease is consistent with requirements under the Mineral Leasing Act to authorize leases of federally owned minerals for oil and gas development through a competitive bidding process, is consistent with the multiple-use and sustained yield mandates under FLPMA, and has satisfied all of the procedural requirements under NEPA.
4. **Relevant Resource Issues:** The EA analyzes the environmental effects to resources that are present in proposed lease parcels and/or resources that could be affected by oil and gas leasing. Consistent with Title 43 Code of Federal Regulations 3131.3, the BLM identified lease stipulations for proposed parcels based upon resource concerns that were identified during previous land use planning processes. Based upon the analysis presented in the EA, I have not identified any significant effects from offering 305 parcels for the lease sale that would require analysis in an Environmental Impact Statement, as defined in 40 CFR §1508.27. Additional site-specific NEPA analysis would occur at the Application for Permit to Drill (APD) stage of development, at which time additional conditions of approval could be identified to address a particular resource concern.
5. **Stipulations:** Appendix S of the Billings RMP and Appendix G of the Miles City and HiLine RMPs describe all of the stipulations applicable to the applicable planning area that would be applied to future leases within the planning area under the Approved Plan. BLM resource specialists reviewed and applied applicable stipulations to all of the lease parcels consistent with these appendices, which are identified by parcel in Appendix A of the EA, and described in Appendix B. The BLM will incorporate all of these stipulations as design criteria into any future decision that authorizes oil and gas development.

A stipulation included in an oil and gas lease shall be subject to exception, modification or waiver only if the stipulation allows them under certain conditions (refer to Appendix B of the EA), and additional site-specific analysis supports the exemption, modification, or waiver. For example NSO 11-70 (streams, waterbodies, riparian, wetland, and floodplains) does not allow exceptions in streams, natural lakes, or wetlands. However, an exception may be granted for riparian areas, floodplains, and artificial ponds or reservoirs if the operator can demonstrate that there are no practicable alternatives to locating facilities in these areas, the proposed actions would maintain or enhance resource functions, and all reclamation goals and objectives would be met.

Any requests for exceptions, modifications, and waivers from these stipulations would be processed by the appropriate BLM office at the Application for Permit to Drill (APD) stage of development. Any exceptions, modifications, or waivers that the authorized officer deems of major public concern or substantial would be subject to public review for at least a 30-day period (43 CFR 3101.1-4).

6. **Public Comment:** The BLM received numerous public comments during the scoping and EA comment periods, as well as protests that alleged BLM failed to consider an important resource issue or that the decision to lease 305 parcels does not comply with NEPA, FLPA or other federal laws. BLM reviewed public comments to help inform the effects analysis, and develop Alternative C. BLM provided detailed responses in Appendix F of the EA and for the protest responses. Comments that led to the development of Alternative C included:

- Leasing parcels in Beaverhead and Madison County could allegedly effect sensitive and recreational fisheries, drinking water, and a wilderness study area. By selecting Alternative C, BLM deferred all Beaverhead and Madison County parcels pending additional analysis to determine the appropriate level of protection for the area.
- Leasing parcels in Valley County (Glasgow Field Office) allegedly fails to consider best science, and could negatively impact migrating sage-grouse in a State of Montana designated Connectivity Area. BLM added discussion of relevant science to the EA. Under Alternative C, BLM deferred parcels in the Connectivity Area to protect resource values.
- NSO stipulations on parcels in sage-grouse PHMA fall short in protecting sage grouse in PHMA off site on state and private lands. Poorly planned off-site drilling potentially affects sage grouse leks on adjoining public lands. BLM added additional discussion about off-site impacts to the EA. Under Alternative C, BLM deferred three parcels in PHMA in South Dakota and one parcel in North Dakota because off site impacts would negative affect several remaining sage-grouse leks in North and South Dakota, and BLM cannot ensure impacts would be adequately mitigated.

Recommended by:

Mark Albers, District Manager,
North Central Montana District

Date

Recommended by:

Diane Friez, District Manager,
Eastern Montana/Dakotas District

Date

Approved by:

Joshua F. Alexander, Acting Deputy State Director,
Division of Energy, Minerals, & Realty

Date