

United States Department of the Interior
Bureau of Land Management

Determination of NEPA Adequacy DOI-BLM-MT-C030-2016-
0079-DNA

July 12, 2016

Project Title: Competitive Oil and Gas Lease Sale, July 12, 2016 Sale

Location: North Dakota Field Office (see Attachment 1 for lease parcel list
by number and legal description and Attachment 4 for Parcel Map)



BLM Office: North Dakota Field Office

NEPA Number: DOI-BLM-MT-C030-2016-0079-DNA

Proposed Action Title/Type: Oil and Gas Lease Sale Parcel, July 12, 2016 Sale

Location/Legal Description:

T. 150 N, R. 104 W, 5TH PM, ND
SEC. 20 Lot 1;
MCKENZIE COUNTY
5.00 Acres

Background:

It is the policy of the Bureau of Land Management (BLM) to make mineral resources available for use and to encourage development of mineral resources to meet national, regional, and local needs. This policy is based on various laws, including the Mineral Leasing Act of 1920 and the Federal Land Policy and Management Act of 1976. The Federal Onshore Oil and Gas Leasing Reform Act of 1987 Sec. 5102(a)(b)(1)(A) directs the BLM to conduct quarterly oil and gas lease sales in each state whenever eligible lands are available for leasing. The Montana State Office conducts mineral estate lease auctions for lands managed by the Federal Government, whether the surface is managed by the Department of the Interior (BLM or Bureau of Reclamation), United States Forest Service, or other departments and agencies. In some cases the BLM holds subsurface mineral rights on split estate lands where the surface estate is owned by another party, other than the Federal Government. Federal mineral leases can be sold on such lands as well.

Members of the public file Expressions of Interest (EOI) to nominate parcels for leasing by the BLM. From these EOIs, the Montana State Office provides draft parcel lists to the appropriate field offices for review. The BLM field offices then review legal descriptions of nominated parcels to determine: if they are in areas open to leasing; if new information has come to light which might change previous analyses conducted during the land use planning process; if there are special resource conditions of which potential bidders should be made aware; and which stipulations should be identified and included as part of a lease. Ultimately, all of the lands in proposed lease sales are nominated by private individuals, companies, or the BLM, and therefore represent areas of high interest.

At the time of this review it is unknown whether a particular parcel will be sold and a lease issued. It is unknown when, where, or if future well sites, roads, and facilities might be proposed. Detailed site-specific analysis and mitigation of activities associated with any particular lease would occur when a lease holder submits an application for permit to drill (APD). Site-specific mitigation and reclamation measures would be described in the conditions of approval (COAs).

A. Description of the Proposed Action

The Proposed Action would be to offer one (1) lease parcel of Federal minerals for oil and gas leasing, in McKenzie County, covering 5.00 Federal mineral acres in conformance with the existing land use planning decisions. The terms and conditions of the standard federal lease and federal regulations would apply to the parcel offered for sale. Parcel number, size, detailed legal land descriptions, and associated stipulations to be included with the parcel offered for sale are listed in Attachment 1. Attachment 4 indicates the location of the parcel.

Applicant: BLM

County: McKenzie County

DNA Originator: Paul Kelley - Natural Resource Specialist (NRS)/Project Lead

B. Land Use Plan (LUP) Conformance

LUP Name* North Dakota RMP/EIS Date Approved: April 1988

Other document**January 27, 2015 Competitive Oil and Gas Lease Sale EA Date Approved:
January 2015

**List applicable LUPs (for example, resource management plans; activity, project, management, or program plans; or applicable amendments thereto)*

N/A The proposed action is in conformance with the applicable LUPs because it is specifically provided for in the following LUP decisions:

The proposed action is in conformance with the LUP, even though it is not specifically provided for, because it is clearly consistent with the following LUP decisions (objectives, terms, and conditions).

This proposed action is in conformance with the decisions contained in the North Dakota Resource Management Plan (RMP/EIS) of April 1988. The North Dakota RMP is the governing land use plans for the NDFO. The lease parcel to potentially be offered for sale is within an area determined to be open to oil and gas leasing in the North Dakota RMP.

C. Identify applicable National Environmental Policy Act (NEPA) document(s) and other related documents that cover the proposed action.

List by name and date all applicable NEPA documents that cover the proposed action.

January 27, 2015 Competitive Oil and Gas Lease Sale EA, DOI-BLM-MT-C030-2014-189-EA

List by name and date other documentation relevant to the proposed action (e.g., biological assessment, biological opinion, watershed assessment, allotment evaluation and monitoring report).

Cultural Resources: BLM# 16-MT030-45

D. NEPA Adequacy Criteria

1. Is the new proposed action a feature of, or essentially similar to, an alternative analyzed in the existing NEPA document(s)? Is the project within the same analysis area, or if the project location is different, are the geographic and resource conditions sufficiently similar to those analyzed in the existing NEPA document(s)? If there are differences, can you explain why they are not substantial?

The proposed action is similar to the alternative analyzed in the referenced lease sale EA. The nominated parcel was reviewed by an interdisciplinary team of resource specialists and identified to be similar in geographic and resource conditions to those analyzed in the referenced lease sale EA above.

2. Is the range of alternatives analyzed in the existing NEPA document(s) appropriate with respect to the new proposed action, given current environmental concerns, interests, and resource values?

Yes, the RMP and EA analyzed appropriate alternatives with respect to the proposed action, including “No Action.” The range of alternatives analyzed in the RMP and EA are appropriate with respect to the new proposed action.

3. Is the existing analysis valid in light of any new information or circumstances (such as rangeland health standard assessment, recent endangered species listings, updated lists of BLM-sensitive species)? Can you reasonably conclude that new information and new circumstance would not substantially change the analysis of the new proposed action?

Yes, the existing analyses are valid and adequate with regard to the proposed action. The Montana/Dakotas Special Status Species list was updated and finalized in August 2014. The list was revised with some species being deleted, others added and delineations provided for those species considered “Special Status” for each field office. Several migratory birds and one bat were added to the list within the NDFO proposed project area. Habitat for the migratory bird species utilizing this parcel overlaps with other migratory bird species previously analyzed in the prior lease sale EA. Applying the conditions of approval specific for migratory birds to the APD would provide the needed protections for any of the migratory bird species listed in the updated 2014 Montana/Dakotas Special Status Species list.

4. Are the direct, indirect and cumulative effects that would result from implementation of the new proposed action similar (both quantitatively and qualitatively) to those analyzed in the existing NEPA document?

Yes, the proposed action would have the same direct and indirect impacts as those analyzed in the referenced EA and also included in the RMP. Similar to the referenced EA, the addition of CR 16-1, LN 14-2, and STD 16-3 lease stipulation, may require the lessee to implement specific measures to reduce impacts of oil and gas operations on historic properties and resources. These measures would be identified during the on-site inspection and environmental review of the APD or Sundry Notice.

The analysis and mitigation identified for the historic properties in January 27, 2015 referenced EA is the same identified in this proposed action. Section 4.8.1 and 4.9.1 of the referenced EA document that surface disturbance associated with exploration and development activities have the potential to affect sites potentially eligible for the National Register of Historic Places (NRHP). As documented in Section 4.8.1 and 4.9.1 of the referenced EA, applying standard lease terms and stipulations provide mechanisms to protect vulnerable significant cultural resource values and implementation of these stipulations at the development stage would provide the necessary measures to protect cultural resources. Therefore, similar to the referenced EA, the lease parcel received stipulation Cultural Resources 16-1, Lease Notice 14-2 and Standard Stipulation 16-3.

Any potential effects on resources from the sale of leases would occur during lease exploration and development activities, which would be subject to future BLM decision-making and NEPA analysis upon receipt of an APD or Sundry Notice. At that time, BLM would ensure compliance with laws, regulations, and land use plans. Specifically for National Land Marks, BLM would ensure compliance with 16 U.S.C.470h-2(f) of the National Historic Preservation Act and coordinate with surface management entities as necessary.

5. Are the public involvement and interagency review associated with existing NEPA document(s) adequate for the current proposed action?

Yes, the public involvement and interagency review associated with the existing NEPA documents is adequate for the proposed action. The RMP/FEIS had public and interagency review in their analyses. In addition, the public had opportunity to participate in a 15-day scoping and 30-day public comment periods on the referenced EA and this proposed action (See Attachment 3 for summary). A protest period was also completed for the referenced EA. The BLM also sent letters to for the 15-day scoping and 30-day public comment period inviting them to submit comments on the parcels proposed in the referenced lease sale EA and on this proposed action.

E. Interdisciplinary Analysis: Identify those team members participating in the lease sale process.

Name	Title	Responsibility
Paul Kelley	Natural Resource Specialist	Project Lead, Document Preparer, Forestry, Soils, Vegetation, Recreation, VRM, Travel Management, Water Resources
Tim Zachmeier	Wildlife Biologist	Wildlife, Special Status Species
Justin W. Peters	Archeologist	Cultural/Special Designations/Native American Religious Concerns
Seth Jackson	Realty Specialist	Lands and Realty
Greg Liggett	Paleontology	Paleontology
Dorothy Van Oss	Geologist	Solid Minerals
Susan Bassett	Air Specialist	Air Resources
Carmen Drieling	Rangeland Management Specialist	Livestock Grazing
Allen Ollila	Fluid Minerals	Fluid Minerals
Jessica Montag	Social Analyst	Economics/Social and Environmental Justice
Jen Frazer	Natural Resource Specialist	GIS
Corrinne Walter	IT Specialist	IT Specialist

F. Mitigation Measures: List any applicable mitigation measures that were identified, analyzed, and approved in relevant LUPs and existing NEPA document(s). List the specific mitigation measures or identify an attachment that includes those specific mitigation measures. Document that these applicable mitigation measures must be incorporated and implemented.

See Attachments 1 and 2 for stipulations to be applied upon lease issuance.

CONCLUSION

Based on the review documented above, I conclude that this proposal conforms to the applicable land use plan and that the NEPA documentation fully covers the proposed action and constitute BLM's compliance with the requirements of NEPA.

Note: If one or more of the criteria are not met, a conclusion of conformance and/or NEPA adequacy cannot be made and this box cannot be checked.

Recommended by _____ Date _____

Loren Wickstrom, Field Manager

Concurrence by _____ Date _____

Diane M. Friez, District Manager

Approval by _____ Date _____

Donato Judice, Deputy State Director – Division of Energy, Minerals,
and Realty

Note: The signed conclusion on this Worksheet is part of an interim step in the BLM's internal decision process and does not constitute an appealable decision. However, the lease, permit, or other authorization based on the DNA is subject to protest or appeal under 43 CFR Part 4 and the program specific regulations.

Attachment 1. Location of proposed parcel with proposed lease stipulations to be applied upon lease issuance.

PARCEL NUMBER	PARCEL DESCRIPTION	PROPOSED STIPULATIONS FOR ENTIRE PARCEL IF LEASED	PROPOSED FOR DEFERRAL-NO LEASING
NDM97300-6K	T. 150 N, R. 104 W, 5TH PM, ND SEC. 20 LOT 1; MCKENZIE COUNTY 5.00 AC PD	CR 16-1 (ALL LANDS) CSU12-5 (ALL LANDS) LN 14-2 (ALL LANDS) LN 14-3 (ALL LANDS) NSO 11-33 (ALL LANDS) NSO 11-36 (ALL LANDS) STD 16-3 (ALL LANDS) TES 16-2 (ALL LANDS) TL 13-15 (ALL LANDS) BOR 17-1 (ALL LANDS) BOR 17-2 (ALL LANDS)	

Attachment 2. Stipulation Key

Stipulation Number	Stipulation Name/Brief Description
CR 16-1	<p>CULTURAL RESOURCES LEASE STIPULATION This lease may be found to contain historic properties and/or resources protected under the National Historic Preservation Act (NHPA), American Indian Religious Freedom Act, Native American Graves Protection and Repatriation Act, E.O. 13007, or other statutes and executive orders. The BLM will not approve any ground disturbing activities that may affect any such properties or resources until it completes its obligations under applicable requirements of the NHPA and other authorities.</p>
CSU 12-5	<p>CONTROLLED SURFACE USE STIPULATION Surface occupancy or use is subject to the following special operating constraint: No disturbance of riparian areas of wetlands, intermittent, ephemeral, or perennial streams and rivers would be allowed except for essential road and utility crossings.</p>
LN 14-2	<p>LEASE NOTICE CULTURAL RESOURCES The Surface Management Agency is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures.</p>
LN 14-3	<p>LEASE NOTICE The lessee or operator shall immediately bring to the attention of the Surface Management Agency (SMA) any paleontological resources or any other objects of scientific interest discovered as a result of approved operations under this lease, and shall leave such discoveries intact and undisturbed until directed to proceed by the SMA.</p>
NSO 11-33	<p>NO SURFACE OCCUPANCY STIPULATION No surface occupancy or use is allowed within 200 feet of wetlands, lakes, and ponds.</p>
NSO 11-36	<p>NO SURFACE OCCUPANCY STIPULATION No surface occupancy or use is allowed in the floodplain of the Yellowstone River.</p>
Standard 16-3	<p>STANDARD LEASE STIPULATION ESTHETICS--To maintain esthetic values, all surface-disturbing activities, semipermanent and permanent facilities may require special design including location, painting and camouflage to blend with the natural surroundings and meet the intent of the visual quality objectives of the Federal Surface Managing Agency (SMA). EROSION CONTROL--Surface-disturbing activities may be prohibited during muddy and/or wet soil periods. CONTROLLED OR LIMITED SURFACE USE STIPULATION --This stipulation may be modified, consistent with land use documents, when specifically approved in writing by the Bureau of Land Management (BLM) with concurrence of the SMA. Distances and/or time periods may be made less restrictive depending on the actual onground conditions. The prospective lessee should contact the SMA for more specific locations and information regarding the restrictive nature of this stipulation. The lessee/operator is given notice that the lands within this lease may include special areas and that such areas may contain special values, may be needed for special purposes, or may require special attention to prevent damage to surface and/or other resources. Possible special areas are identified below. Any surface use or occupancy within such special areas will be strictly controlled, or if absolutely necessary, excluded. Use or occupancy will be restricted only when the BLM and/or the SMA demonstrates the restriction necessary for the protection of such special areas and existing or planned uses. Appropriate modifications to imposed restrictions will be made for the maintenance and operations of producing oil and gas wells. After the SMA has been advised of specific proposed surface use or occupancy on the leased</p>

Stipulation Number	Stipulation Name/Brief Description
	<p>lands, and on request of the lessee/operator, the Agency will furnish further data on any special areas which may include:</p> <ul style="list-style-type: none"> • 100 feet from the edge of the rights-of-way from highways, designated county roads and appropriate federally-owned or controlled roads and recreation trails. • 500 feet, or when necessary, within the 25-year flood plain from reservoirs, lakes, and ponds and intermittent, ephemeral or small perennial streams: 1,000 feet, or when necessary, within the 100-year flood plain from larger perennial streams, rivers, and domestic water supplies. • 500 feet from grouse strutting grounds. Special care to avoid nesting areas associated with strutting grounds will be necessary during the period from March 1, to June 30. One-fourth mile from identified essential habitat of state and federal sensitive species. Crucial wildlife winter ranges during the period from December 1 to May 15, and in elk calving areas during the period from May 1 to June 30. • 300 feet from occupied buildings, developed recreational areas, undeveloped recreational areas receiving concentrated public use and sites eligible for or designated as National Register sites. • Seasonal road closures, roads for special uses, specified roads during heavy traffic periods and on areas having restrictive off-road vehicle designations. • On slopes over 30 percent or 20 percent on extremely erodible or slumping soils. <p>APPLICATIONS FOR PERMIT TO DRILL (APDs)--The appropriate BLM field offices are responsible for the receipt, processing, and approval of APDs. The APDs are to be submitted by oil and gas operators pursuant to the requirements found in Onshore Oil and Gas Order No. 1 -- Approval of Operations on Onshore Federal and Indian Oil and Gas Leases (Circular No. 2538). Additional requirements for the conduct of oil and gas operations can be found in the Code of Federal Regulations Title 43, Part 3160. Copies of Onshore Oil and Gas Order No. 1, and pertinent regulations, can be obtained from the BLM field offices in which the operations are proposed. Early coordination with these offices on proposals is encouraged.</p> <p>CULTURAL AND PALEONTOLOGICAL RESOURCES--The SMA is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures. Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the SMA, shall:</p> <ul style="list-style-type: none"> • Contact the appropriate SMA to determine if a site-specific cultural resource inventory is required. If an inventory is required, then: • Engage the services of a cultural resource specialist acceptable to the SMA to conduct a cultural resource inventory of the area of proposed surface disturbance. The operator may elect to inventory an area larger than the area of proposed disturbance to cover possible site relocation which may result from environmental or other considerations. An acceptable inventory report is to be submitted to the SMA for review and approval no later than that time when an otherwise complete application for approval of drilling or subsequent surface-disturbing operation is submitted. • Implement mitigation measures required by the SMA. Mitigation may include the relocation of proposed lease-related activities or other protective measures such as testing salvage and recordation. Where impacts to cultural resources cannot be mitigated to the satisfaction of the SMA, surface occupancy on that area must be prohibited. <p>The operator shall immediately bring to the attention of the SMA any cultural or paleontological resources discovered as a result of approved operations under this lease, and not disturb such discoveries until directed to proceed by the SMA.</p> <p>ENDANGERED OR THREATENED SPECIES--The SMA is responsible for assuring that the leased land is examined prior to undertaking any surface-disturbing activities to determine effects upon any plant or animal species, listed or proposed for listing as endangered or threatened, or their habitats. The findings of this examination may result in some restrictions</p>

Stipulation Number	Stipulation Name/Brief Description
	<p>to the operator's plans or even disallow use and occupancy that would be in violation of the Endangered Species Act of 1973 by detrimentally affecting endangered or threatened species or their habitats.</p> <p>The lessee/operator may, unless notified by the authorized officer of the SMA that the examination is not necessary, conduct the examination on the leased lands at his discretion and cost. This examination must be done by or under the supervision of a qualified resources specialist approved by the SMA. An acceptable report must be provided to the SMA identifying the anticipated effects of a proposed action on endangered or threatened species or their habitats.</p>
TES 16-2	<p>ENDANGERED SPECIES ACT SECTION 7 CONSULTATION STIPULATION</p> <p>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, and require modifications to or disapprove proposed activity that is likely to result in jeopardy to proposed or listed threatened or endangered species or designated or proposed critical habitat.</p>
TL 13-15	<p>TIMING LIMITATION STIPULATION</p> <p>No seismic exploration is allowed within 500 feet of waterfowl nesting habitat from March 1 through July 1 to protect nesting waterfowl. This stipulation does not apply to operation and maintenance of production facilities.</p>
BOR 17-1	BUREAU OF RECLAMATION - Agency lease stipulations.
BOR 17-2	BUREAU OF RECLAMATION - Agency special stipulations.

Attachment 3. Summary of Public Participation

Consistent with WO IM No. 2010-117, two public review periods are conducted for each lease sale, a 15-day scoping period on the preliminary review of the nominated parcels and recommended stipulations, and a 30-day public comment period on the DNA. Coordination and/or consultation were also conducted throughout the leasing process with Tribes, external entities, and Surface Management Agencies.

Coordination with North Dakota Game and Fish (NDGF) was conducted for the lease parcel being reviewed. A letter was sent to the NDGF during the 15-day scoping period.

The BLM consults with Native Americans under Section 106 of the National Historic Preservation Act. The BLM sent letters to tribes in Montana, North Dakota, and Minnesota at the beginning of the 15-day scoping period informing them of the potential for the parcel to be leased and inviting them to submit issues and concerns BLM should consider in the environmental analysis. Letters were sent to the Tribal Presidents and THPO or other cultural contacts for the Turtle Mountain Band of the Chippewa (TMBC); the Fort Peck Tribes (FPT), the Standing Rock Sioux Tribe (SRST); the Mandan Hidatsa, and Arikara Nation (MHAN); the Spirit Lake Sioux Tribe (SLST); the Northern Cheyenne Tribe (NCT), and the Lower Sioux Indian Community (LSIC) Tribe. In addition to scoping letters, THPOs also received file search results from the preliminary review of parcels conducted by BLM. The BLM sent a second letter with a copy of the DNA to the tribes informing them about the 30 day public comment period, and to solicit any information BLM should consider before making a decision whether to offer the parcel for sale.

Public scoping for this project was conducted through a 15-day scoping period advertised on the BLM Montana State Office website, news release to surrounding area newspapers, and posting on the field office website NEPA notification log. Scoping was initiated December 14, 2015.

On February 8, 2016, the DNA was made available for a 30-day public comment period. Notification letters were distributed to external entities, local agencies, and tribes to explain that the DNA was available for review and comment. Tribes also received a copy of the DNA.

Responses were received from both SHPO and from ND Fish and Game during the 15 day scoping period.

After the 30-day protest period, but before lease issuance, the BLM will issue the decision. This information, along with other updates and Lease Sale Notice information can be found on the Montana/Dakotas BLM website <http://on.doi.gov/1DYL908>. Current and updated information about our DNA and previous EAs, Lease Sale Notices, and corresponding information pertaining to this sale can be found at the link referenced above.

Attachment 4. Map of Parcel in McKenzie County

