U.S. Department of the Interior
Bureau of Land Management

Decision Record

DOI-BLM- NV-B020-2016-0015-EA

Makoil Inc.

Application for Permit to Drill

the Soda Spring 1-22 Oil Well

PREPARING OFFICE

U.S. Department of the Interior
Bureau of Land Management
Tonopah Field Office, NV

Decision Record

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Application for Permit to Drill the Soda Spring 1-22 Oil Well

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1. Project Name

Makoil Inc. Application for Permit to Drill the Soda Spring 1-22 Oil Well

2. Decision

It is my decision to issue a permit to Makoil Inc. (operator to change to Hussey Oil & Gas Inc.) to drill the Soda Spring 1-22 oil well at the proposed site in Section 22, T. 8 N., R. 57 E., SE ¼ of NW ¼, MDM as described in the Proposed Action, and issue the proposed right-of way (ROW) grant (N-94465) along approximately 0.84 mile of an existing raised gravel bed road where it extends from Railroad Valley Road / Hanks Road to the lease boundary. A Finding of No Significant Impact (FONSI) supports this decision. I have considered effects of the proposed action including Conditions of Approval, Standard Operating Procedures and lease-specific stipulations addressed in the EA and in the FONSI, and have determined that all practicable means to avoid or minimize environmental harm have been adopted and that unnecessary or undue degradation of the public lands will not result.

3. Alternatives Considered

The Environmental Assessment (EA) analyzed the Proposed Action and a No Action alternative. The No Action alternative would not respond to the BLM's purpose and need to provide authorized use of the public land to drill the well and develop associated infrastructure and legal access to the drill site, in compliance with the Federal Land Policy and Management Act of 1976 (FLPMA) and as established by BLM's legal responsibility to respond to Makoil's Application for Permit to Drill (APD) and application for a Title V FLPMA ROW for access to drill on Oil and Gas lease N-81152, on which they have valid existing lease rights.

There was one alternative considered but eliminated from detailed analysis. Makoil Inc. originally proposed a different project location within the same lease boundary, in Section 22, T. 8 N., R. 57 E., S ½ MDM. That proposal included new construction of an access road to connect the well pad location with the existing road. BLM personnel found that the well pad and access road location was within an area mapped by the U.S. Army Corps of Engineers as designated wetland, and subject to regulation under Section 404 of the Clean Water Act. On receiving this information Makoil Inc. elected to eliminate that location from further consideration.

4. Management Considerations

Plan Conformance

Issuing the permit to drill is in conformance with the Tonopah Resource Management Plan (RMP) and Record of Decision approved on October 2, 1997. The proposed well site is within an area that is designated as "open to fluid minerals leasing subject to standard lease terms and conditions" (Tonopah RMP, page 22). The Fluid Minerals Objective in the Tonopah RMP (page 22) is "To provide opportunity for exploration and development of fluid minerals such as oil, gas, and geothermal resources, using appropriate stipulations to allow for the preservation and enhancement of fragile and unique resources."

Appropriate stipulations were included in the Proposed Action and, based on the EA, I found that these were adequate to protect resources of concern.

Issuing the ROW is in conformance with the Lands and Rights-of-Way Objective in the Tonopah RMP (page 18), "To make lands available for community expansion and private economic development and to increase the potential for economic diversity" and with the Standard Operating Procedure (Tonopah RMP, page 33) stating "Unless the land has been dedicated to a specific use or uses, public land within the Tonopah Planning Area is available for consideration for linear rights-of-way for access...." The proposed ROW is for an existing road; the land is not dedicated to another use and there are no environmental impacts associated with granting the ROW.

See EA page 2.

Conformance with Other Statutes, Regulations, Policy and Plans

This decision conforms with BLM Onshore Order #1, which requires that approval of all proposed exploratory, development, and service wells and all required approvals of subsequent well operations and other lease operations be obtained in accordance with 43 CFR 3162.3-1, 3162.3-2, 3162.3-3, 3162.3-4 and 3162.5-1. It conforms with 43 CFR 3101.1-2, which states that a lessee shall have the right to use so much of the leased lands as is necessary to explore for, drill for, mine, extract, remove and dispose of all the leased resource in a leasehold, 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.

This decision conforms with all Nevada State and Federal requirements including, but not limited to, those of the BLM, State of Nevada Division of Minerals, State of Nevada Division of Environmental Protection, Nevada State Engineer, and the Federal Environmental Protection Agency. It is in conformance with Nye County Policy Plan for Public Lands (2011, page 38) which states, "Oil and gas resources should be inventoried and development encouraged."

The decision to issue the ROW conforms with national policy under 43 CFR 2801.2.

See EA page 2.

Issues addressed in EA

A BLM Interdisciplinary (ID) Team considered all elements of the environment that are listed in the 2008 BLM NEPA Handbook Appendix 1 and the Nevada Instruction Memorandum BLM-NV-IM-2009-030 as required to be considered in EAs, identified whether they were present and had the potential to be affected (floodplains and migratory birds; EA section 3.1), and addressed the potential effects in EA Chapters 3 and 4. The ID Team identified other elements of the human environment had the potential to be affected (soils, special status species, vegetation, visual resources, and wildlife; EA section 3.2) and also addressed the m in EA Chapters 3 and 4. With environmental protection measures incorporated in the Proposed Action (EA Chapter 2) and including Conditions of Approval, Standard Operating Procedures and lease-

specific stipulations (EA Appendices A, B and C), the EA found the potential effects to be minimal and/or temporary and I found that they did not meet the criteria for significance (see FONSI).

Environmental Protection Measures, Conditions Of Approval, Standard Operating Procedures and Lease-Specific Stipulations

All of the environmental protection measures incorporated in the Proposed Action (EA Chapter 2) and the Conditions of Approval, Standard Operating Procedures and lease-specific stipulations (EA Appendices A, B and C) are incorporated by reference from the EA and are included in this Decision as part of the approved action.

5. Public Involvement, Consultation and Coordination

- Makoil's Notice of Staking was made available for public review and comment in the Tonopah Field Office public room from October 13, 2015 to November 13, 2015. We contacted Nevada Department of Wildlife (NDOW) with project information, and NDOW returned comments. We received no other comments during that time.

The EA was made available for public review and comment from September 1 through 16, 2016. We received comment letters from the following:

- Nevada Department of Wildlife (NDOW)
- U.S. Fish and Wildlife Service (USFWS)
- Wildlands Defense (WLD)
- State Land Use Planning Agency
- Nevada Division of Water Resources (NDWR)
- Nevada Division of Environmental Protection, Bureau of Water Pollution Control

We revised the EA with the following changes in response to comments received (see Appendix E of the EA for other comment responses):

In response to NDOW and USFWS, we worked with NDOW to address potential effects to a population of Railroad Valley tui chubs, a special status fish species, that historically existed and may still exist in the spring on private land that is proposed to be used as the water source for drilling (Chapter 3, *Wildlife, including Special Status Species*).

In response to USFWS, we added discussion of cacti and BLM Sensitive plant species that Nevada Natural Heritage Program (NNHP) and/or BLM personnel identified as occurring within 5 kilometers (3.1 miles) of the project area. We added this information to the *Vegetation* section of Chapter 3 and changed the section heading to *Vegetation, including Special Status Species*).

In response to NDWR we added further description of potential state permit requirements to the Proposed Action (Chapter 2), and added NRS §534.060(3) to the list of regulations that require sealing artesian flow encountered (Chapter 3, Table 1).

BLM met with Maurice Frank-Churchill, representing the Duckwater Shoshone Tribe, on January 21, 2016 to discuss the Proposed Action and other projects; and discussed it with Mr. Churchill again on August 29, 2016 after an adjustment of the proposed disturbance area within the lease boundary. Tribal coordination for the project is ongoing.

6. Appeal Provisions

If you are adversely affected by this decision, you may appeal the decision. This decision will go into effect immediately and will remain in effect while appeals are pending unless a stay is granted under 43 CFR 4.21(b).

A person who wishes to appeal to the Interior Board of Land Appeals must do so under 43 CFR 4.411 and must file in the office of the officer who made the decision (not the board), in writing to Timothy J. Coward, 1553 S. Main St., PO Box 911, Tonopah, Nevada 89049. A person served with the decision being appealed must transmit the notice of appeal in time to be filed in the office where it is required to be filed within thirty (30) days after the date of service.

The notice of appeal must give the serial number or other identification of the case and may include a statement of reasons for the appeal, a statement of standing if required by § 4.412(b), and any arguments the appellant wishes to make. Attached Form 1842-1 provides additional information regarding filing an appeal.

No extension of time will be granted for filing a notice of appeal. If a notice of appeal is filed after the grace period provided in §4.401(a), the notice of appeal will not be considered and the case will be closed by the officer from whose decision the appeal is taken. If the appeal is filed during the grace period provided in §4.401(a) and the delay in filing is not waived, as provided in that section, the notice of appeal will not be considered and the appeal will be dismissed by the Board.

The appellant shall serve a copy of the notice of appeal and any statements of reason, written arguments, or briefs under §4.413 on each adverse party named in the decision from which the appeal is taken and on the Office of the Solicitor, Pacific Southwest Regional Solicitor, U.S. Department of the Interior, 2800 Cottage Way, Room E-2753, Sacramento, California 95825¬ 1890. Service must be accompanied by personally serving a copy to the party or by sending the document by registered or certified mail, return receipt requested, to the address of record in the bureau, no later than 15 days after filing the document.

In addition, within thirty (30) days of receipt of this decision you have the right to file a petition for a stay together with your appeal in accordance with the regulations at 43 CFR 4.21. The petition must be served upon the same parties specified above.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

1) The relative harm to the parties if the stay is granted or denied;
2) The likelihood of the appellant's success on the merits;
3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
4) Whether the public interest favors granting the stay.

43 CFR 4.471 (d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted. At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

7. Approval from Authorized Official

9/22/2016

Signature

Date

Timothy J. Coward

Field Office Manager

Tonopah Field Office

Form 1842-1
(September 2006)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS
1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL ..... A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

NOTICE OF APPEAL..... U.S. Department of the Interior, Bureau of Land Management, Bishop Field Office, 351 Pacu Lane, Suite 100 Bishop, CA 93514

WITH COPY TO SOLICITOR... U.S. Department of the Interior, Office of the Solicitor, Pacific Southwest Region, 2800 Cottage Way, Room E-1712, Sacramento, CA 95825

3. STATEMENT OF REASONS Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR ..... U.S. Department of the Interior, Office of the Solicitor, Pacific Southwest Region, 2800 Cottage Way, Room E-1712, Sacramento, CA 95825

4. ADVERSE PARTIES..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE..... Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that all communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

(Continued on page 2)

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ---------- Alaska
Arizona State Office --------- Arizona
California State Office ------- California
Colorado State Office -------- Colorado
Eastern States Office --------- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ---------- Idaho
Montana State Office --------- Montana, North Dakota and South Dakota
Nevada State Office ---------- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ---------- Oregon and Washington
Utah State Office ---------- Utah
Wyoming State Office -------- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.