United States Department of the Interior Bureau of Land Management
Butte Field Office
106 North Parkmont
Butte, MT 59701

Finding of No Significant Impact Environmental Assessment
DOI-BLM-MT-L002-2017-0003-EA

Introduction

Pursuant to requirements of the Mineral Leasing Act of 1920 ("MLA"), 30 U.S.C. §§ 181 *et seq.*, as amended by the Federal Onshore Oil and Gas Leasing Reform Act of 1987, Pub. L. No. 100-203, BLM-Montana / Dakotas holds competitive oil and gas lease sales, on a quarterly basis, in order to respond to public requests for "nominated" federal lands to be made available for oil and gas leasing. *See* 30 U.S.C. § 226(b)(1)(A); 43 C.F.R. § 3120.1-1. As provided in sections 102(a)(12) and 103(l) of the Federal Land Policy and Management Act ("FLPMA") 43 U.S.C. §§ 1701(a)(12), 1702(l), oil and gas leasing is a "principal use" for the public lands. The BLM issues oil and gas leases on the public lands in order to provide for the orderly development of the fluid mineral resources under its jurisdiction in a manner that is consistent with the multiple use management provided for by FLPMA. *E.g.*, 43 U.S.C. § 1702(c). For example, Section 102 of FLPMA, 43 U.S.C. § 1701(a)(12) imposes upon the BLM a responsibility to manage the public lands in a manner that "recognizes the Nation's need for domestic sources of minerals." In most instances, before oil and/or gas, which could assist in meeting the Nation's needs for domestic sources of minerals, can be produced from public lands, an oil and gas lease must be issued for the lands. As such, the offering and issuance of oil and gas leases through the Lease Sale meets the purpose and need for action relevant to the responsibilities placed upon the BLM pursuant to the MLA and FLPMA. *See generally* 43 U.S.C. §§ 1701 *et seq.*; *see also* 42 U.S.C. §§ 4321 *et seq.*

The BLM reviewed publically submitted expressions of interest ("EOIs"), and determined that 9 parcels covering approximately 4,307 acres of federal minerals under the jurisdiction of the BLM Butte Field Office ("BFO") are located within areas determined to be open to oil and gas leasing in the BFO Approved Resource Management Plan (ARMP). The BLM prepared an Environmental Assessment (EA) to disclose and analyze the potential environmental consequences from offering the 9 parcels in a competitive oil and gas lease sale tentatively scheduled to occur on March 13, 2018. The 9 parcels are located in Park County. The EA was prepared based on available information including inventory and monitoring data files, and considers the effects of a No Action Alternative and the Proposed Action.

The No Action Alternative would exclude all 9 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.

The Proposed Action would be to offer 9 lease parcels covering approximately 4,307 Federal mineral acres (670 acres BLM administered surface and 3,637 acres private surface) for oil and gas leasing, with standard federal lease terms and conditions, and required stipulations and/or

lease notices as identified in Appendix A and B of the EA. 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 ARMP.

On August 14, 2017, 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, other federal agencies. On August 29, 2017, the BLM posted the EA (DOI-BLM-MT-L002-2017-0003-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 (September 30 – October 30, 2017), and mailed or emailed a notice to interested parties (i.e. people that commented on scoping), tribes, and local, state, other federal agencies that the EA was available for review. On December 13, the BLM posted an updated EA and this draft unsigned FONSI to the e-Planning website to initiate a 30-day protest period. Any arguments within this Protest on deferred parcels are considered moot.

Plan Conformance and Consistency:

The amended proposed action to lease six parcels and defer three parcels conforms with the 2009 Butte Field Office Approved Resource Management Plan (BFO ARMP) and associated Record of Decision and Final Environmental Impact Statement (FEIS). 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. The BLM applied stipulations to all of the lease parcels consistent with the requirements of the ARMP (Appendix M).

Finding of No Significant Impact:

Based on my review of the updated EA, public comments, the Butte Field Office ARMP, and other applicable laws, regulations, and policy, I have determined that the amended proposed action is not a major federal action, and will not significantly affect the quality of the human environment, individually or cumulatively with other actions in the general area. Therefore, an environmental impact statement (EIS) is not required. Any future proposed development on lease parcels would be subject to additional site-specific NEPA analysis and documentation. I have based my determination upon consideration of the context and intensity of the project as defined by 40 CFR §1508.27 and described below:

Context:

The Butte Field Office administers about 307,309 surface acres of BLM land and a total of about 660,819 acres of federal subsurface mineral estate in western Montana. These lands are dispersed throughout a 7.2 million acre planning area in eight counties. Butte ARMP ROD, page 1. Approximately 632,045 acres are available for oil and gas leasing (Maps 18a-18d), subject to the stipulations in Table 22 or Standard Lease Terms. ARMP ROD, p 71.

The proposed action would offer approximately 4,307 Federal mineral acres (670 acres BLM administered surface and 3,637 acres private surface) in a competitive oil and gas lease sale (less than one percent of the available federal minerals in the BFO boundary). The amended proposed

action would offer approximately 2,652 Federal mineral acres in a competitive oil and gas lease sale, and defer approximately 1655 acres in parcels MTM 108952FU, FT, and FR**.**

Impacts to resources would be similar to, and within the scope of those described and considered within the BFO RMP/ROD (2009) and its respective FEIS. The EA that was prepared identifies stipulations and lease notices that that avoid and minimize impacts to resources, which would be incorporated up front into any future oil and gas development. No surface disturbance would occur as a result of my decision. Additional site-specific NEPA analysis would occur at the Application for Permit to Drill stage of development, and Conditions of Approval (COAs) and/or additional mitigation could be applied to address site-specific resource concerns. My decision to offer 9 parcels for lease in a competitive bid is consistent with applicable laws, regulations, and policy, and does not cause any known or identified significant impacts of international, national, regional, or state-wide importance.

Intensity:

The following discussion is organized around the Ten Significance Criteria described in 40 CFR 1508.27 and incorporated into resources and issues considered (includes supplemental authorities Appendix 1 H-1790-1) and supplemental Instruction Memorandum, Acts, regulations and Executive Orders. The following criteria have been considered in evaluating intensity for this proposal:

1. Impacts may be both beneficial and adverse:

There are no direct impacts to resources from the act of leasing. The EA analyzes a reasonably foreseeable development scenario to identify indirect impacts from leasing that may occur as a result of potential future development. Stipulations and lease notices designed to avoid and minimize impacts to the various resources and land uses were incorporated in the design of the proposed action. None of the environmental effects associated with the amended proposed action to offer six parcels for sale, as discussed in detail in the EA, were determined to be significant, nor do the effects exceed those described in the BFO ARMP/ROD (2009) and its respective FEIS.

2. The degree to which the selected alternative will affect public health or safety:

The selected alternative does not authorize any lease exploration or development activities. Upon receipt of an Application for a Permit to Drill (APD), the BLM would initiate a site-specific NEPA analysis that considers the direct, indirect, and cumulative effects of a specific action, and identify mitigation needed to protect public health and safety.

In all potential exploration and development scenarios, the BLM would require the use of BMPs documented in “Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development” (USDI and USDA 2007), also known as the “Gold Book.” Standard federal lease terms and conditions, and federal regulations would apply to each parcel offered for sale. For example, spill prevention plans would be required and any drilling operations would be conducted in accordance with the safety requirements of 43 C.F.R. Subpart 3160, the Federal Onshore Oil and Gas Orders (“Onshore Orders”), best management practices recommended by

the American Petroleum Institute, and other industry requirements for the protection of worker safety and public health. The BLM could also identify Conditions of Approval (COAs), based on site-specific analysis that could include moving the well location, restrict timing of the project, or require other reasonable measures to minimize impacts to other resource values, land uses, or users not addressed in the lease stipulations at the time operations are proposed (43 CFR 3101.1-2).

3. Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farm lands, wetlands, wilderness, wild and scenic rivers, or ecologically critical areas:

The oil and gas lease EA disclosed the effects to historic and cultural resources. The amended proposed action to offer six parcels for sale would have no direct impacts on cultural resources. Effects to historic or cultural resources located within the lease parcels at the APD stage are unlikely because of stipulations in place via this EA. Leased parcels are subject to CR 16-1 (NHPA compliance) and LN 14-2 Cultural Inventory Requirement, which allows for identification and avoidance of sites through project re-design. Cultural resources identified through this stipulation would be avoided or evaluated for the NRHP. Any eligible site, or site for which a clear eligibility determination cannot be obtained, which cannot be avoided may become subject to Stipulation NSO 11-120 (No Surface Occupancy). The L&CNHT is protected through the application of NSO 11-26 (No Surface Occupancy).

During the EA comment period, several tribes expressed an interest in the lease sale and the importance of future communication/coordination with respect to impacts to cultural resources. Tribal governments would be notified if an APD is submitted that has more specific information about proposed well locations.

There are no impacts to designated park lands, prime farmlands, wilderness, wild and scenic rivers, or ecologically critical areas in the parcels. Wetlands are protected by NSO 11-2.

4. The degree to which the effects on the quality of the human environment are likely to be highly controversial:

As a factor for determining whether or not to prepare a detailed environmental impact statement (within the meaning of 40 CFR section 1508.27(b) (4)), *controversy does not refer to the existence of opposition to a use*. Rather, a federal action is controversial *if a substantial dispute exists as to [its] size, nature, or effect*." *Northwest Environmental Defense Center v. Bonneville Power Administration***,** 117 F.3d 1520, 1536 (9th Cir. 1997).

No anticipated effects have been identified that are controversial. During scoping and the EA comment period, the BLM received comments that the Butte EA did not analyze the effects of hydraulic fracturing (fracking), and that the level of controversy associated with fracking and its expansion in association with the lease sale is sufficient to trigger the need for an EIS.

The BLM added a discussion on the effects of hydraulic fracturing to the EA (Sections 3.3 and 3.8). The amended proposed action to offer six parcels for sale would have no direct impacts on water resources. Any potential effects on water from the sale of lease parcels would occur at the

time the leases are developed at the APD stage. The use of any specific water source on a federally administered well requires review and analysis of the proposal through the NEPA process, which will be completed at the APD stage. The Gold Book, Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development (BLM and USFS 2007), would be followed, and site-specific mitigation measures, BMPs, and reclamation standards would be implemented and monitored in order to minimize effects to water resources. All proposed actions must comply with local, state, and federal regulations, including Montana water laws. In addition to federal regulations, the State of Montana's Board of Oil and Gas Conservation (MBOGC) have regulations, which ensure that all resources including groundwater are protected. The MBOGC regulations require new and existing wells, which will be stimulated by hydraulic fracturing, to demonstrate suitable and safe mechanical configuration for the stimulation treatment proposed.

The selected alternative conforms with current land use plan guidance which allocated federal mineral estate administered by the BLM as either available or administratively unavailable for oil and gas leasing, and all other applicable laws and regulations.

5. The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks:

The amended proposed action of selling oil and gas leases is not unique or unusual. The State and private mineral owners also sell oil and gas leases. The EA describes typical exploration and development activities that could occur on a federal lease along with the potential impacts from those activities as well as applicable stipulations designed to minimize or eliminate impacts. There are no predicted effects on the human environment that are considered to be highly uncertain or involve unique or unknown risks.

During the EA public comment period, the BLM received comments that the possible effects on the human environment are highly uncertain or involve unique or unknown risks and that preparation of an EIS is mandated where uncertainty maybe be resolved by further collection of data, or where the collection of such data may prevent speculation on potential effects. (Appendix D, Comment 56). This EA is tiered to the information and analysis and conforms to the decisions contained in the 2009 Record of Decision (ROD) and Butte Approved Resource Management Plan (BFO ARMP). The ROD and ARMP are in compliance with all Federal laws, regulations, and policy. The direct, indirect, and cumulative effects of oil and gas leasing across the Butte field office were evaluated in the FEIS for the ARMP. In addition, a discussion of oil and gas development including hydraulic fracturing, and effects on water resources was added to the EA. Refer to Section 3.3 and 3.8.

6. The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration:

This amended proposed action does not establish a precedent for future actions. The federal oil and gas lease does not authorize any exploration or development activities; however, the lease provides the lessee with the opportunity to explore for and develop oil and gas resources after receipt of necessary approvals. The BLM will prepare an environmental record of review (43 CFR 3162.5-1(a)) and comply with NEPA to evaluate exploration and development projects

before approval of a site-specific project.

7. Whether the action is related to other actions with individually insignificant but cumulatively significant impacts – which include connected actions regardless of land ownership:

This EA is tiered to the information and analysis and conforms to the decisions contained in the 2009 Butte Record of Decision (ROD) and Butte Approved Resource Management Plan (BFO ARMP). The ROD and ARMP are in compliance with all Federal laws, regulations, and policy. The direct, indirect, and cumulative effects of oil and gas leasing were considered at the appropriate scale for the full Reasonably Foreseeable Development Scenario (RFD) for the Butte field office in the FEIS for the ARMP. The decisions on what areas to not lease, lease with standard, moderate, or major stipulations is done at the RMP level in order to look at the larger picture of impacts (including cumulative impacts).

There are no ground-disturbing activities authorized at the leasing stage. The proposed action by itself or in connection with other activities would not have significant impacts. Exploration and development projects will be analyzed at the APD stage to determine the significance of site-specific cumulative impacts.

8. The degree to which the action may adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources:

The BLM selected alternative will not adversely affect districts, sites, highways, structures, or other objects listed in or eligible for listing in the National Register of Historic Places. Based on previous and ongoing cultural surveys and through mitigation by avoidance, no adverse impacts to cultural resources were identified or anticipated. There are no features within the analysis area listed or eligible for listing in the National Register of Historic Places that would be adversely affected by the proposed action.

Effects to cultural resources located within the lease parcels at the APD stage are unlikely because of stipulations in place via this EA. Leased parcels are subject to CR 16-1 (NHPA compliance) and LN 14-2 Cultural Inventory Requirement, which allows for identification and avoidance of sites through project re-design. Cultural resources identified through this stipulation would be avoided or evaluated for the NRHP. Any eligible site, or site for which a clear eligibility determination cannot be obtained, which cannot be avoided may become subject to Stipulation NSO 11-120 (No Surface Occupancy).

9. The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973, or the degree to which the action may adversely affect: 1) a proposed to be listed endangered or threatened species or its habitat, or 2) a species on BLM's sensitive species list:Stipulations designed to minimize impacts to listed or proposed to be listed threatened or endangered species or their habitat have been included with the BLM

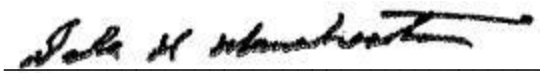
Preferred alternative.

The amended proposed action to offer six parcels for sale would have no effect to listed threatened / endangered/proposed species. Habitat, higher elevation sub-alpine fir, for both lynx and wolverine is lacking in all the parcels. Impacts to habitat for sensitive species are avoided or minimized through stipulations applied to this lease sale and Standard Operating Procedures, Best Management Practices and Conditions of Approval applied at the APD stage. Refer to additional discussion in the EA, Section 3.10.

10. Whether the action threatens a violation of a federal, state, local, or tribal law, regulation or policy imposed for the protection of the environment, where on-federal requirements are consistent with federal requirements:

The amended proposed action does not violate any known federal, state, local or tribal law or requirements imposed for the protection of the environment. State, local, and tribal interests were given the opportunity to participate in the environmental analysis process. Furthermore, the amended proposed action is consistent with applicable land management plans, policies and programs.

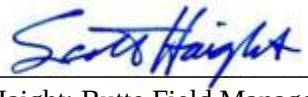
Recommended by:



3/9/2018

Dale Manchester; NCMD Division Chief, Oil and Gas — Date

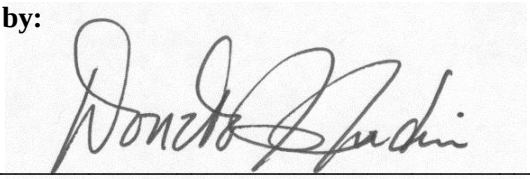
Concurrence by:



3/9/2018

Scott Haight; Butte Field Manager — Date

Approved by:



3/9/2018

Donato J. Judice; Deputy State Director,
Division of Energy, Minerals, & Realty — Date