



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Eastern States
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Washington, DC 20003
<http://www.blm.gov/eastern-states>

**BLM EASTERN STATES
DECISION RECORD
BLM JUNE 2019 OIL AND GAS LEASE SALE
BLM NEPA #s: DOI-BLM-ES-020-2018-0014-EA & DOI-BLM-ES-020-2018-0026-EA**

SUMMARY

The Bureau of Land Management (BLM), United States Department of the Interior, proposes to offer for potential oil and gas development approximately 1,720.10 acres of public domain and acquired minerals through an internet-based competitive oil and gas lease sale, and to issue oil and gas leases for the corresponding 18 parcels (located underneath private surface in Mississippi (MS) and Louisiana (LA)). The MS parcels are located within the Greene, Lamar, Perry, and Jackson Counties and constitute 16 Expressions of Interest (EOIs) and the LA parcels are located within the St. Mary's and Iberville Parishes and constitute 2 EOIs.

The BLM processes a Federal oil and gas lease through the competitive leasing procedures described in Title 43 Code of Federal Regulations Subpart 3120. The BLM is required by law to hold quarterly oil and gas lease sales if lands are available for leasing.

NATIONAL ENVIRONMENTAL POLICY ACT ANALYSIS

The Proposed Action has been reviewed in accordance with the National Environmental Policy Act of 1969 (NEPA), and two Environmental Assessments that include stipulations to avoid or minimize adverse effects to resources to the maximum extent practicable have been prepared.

The BLM prepared both the DOI-BLM-ES-020-2018-0014-EA (hereafter referred as the "MS Leasing EA"), and the DOI-BLM-ES-020-2018-0026-EA (hereafter referred as the "LA Leasing EA"). The BLM concludes that both EAs adequately address the environmental impacts of the PA and satisfy BLM's NEPA procedures including public involvement opportunities.

MS Leasing EA Alternatives

The leasing EA analyzed two alternatives: the Proposed Action and the No Action Alternative.

Proposed Action- under the Proposed Action, BLM will lease 2,518.88 acres of federal minerals located in Forrest, George, Greene, Jackson, Lamar, Perry, and Stone Counties in Mississippi for potential future oil and gas development, and will subsequently offer the parcels up on a competitive

lease sale that will grant successful bidders exclusive rights to explore and develop oil and gas reserves on the leases but will not authorize surface disturbing activities. Surface disturbance associated with the parcels is not part of this proposed action. For the purpose of facilitating the effects analysis, the BLM used a “reasonable foreseeable development scenario” for potential future wells that included the construction of a road, drilling pad, and reserve pit. Should any leaseholder plan activities that require surface disturbance, the BLM must approve an Application for Permit to Drill (APD) before surface disturbance activities related to oil and gas activities can occur. The APD will require further site-specific NEPA analysis.

No Action Alternative- under the No Action alternative, the 2,518.88 acres of federal minerals located in Forrest, George, Greene, Jackson, Lamar, Perry, and Stone Counties Mississippi will not be leased. Any revenues from leasing federal oil and gas will be lost.

MS Leasing EA Public Involvement

The BLM made the leasing EA and unsigned FONSI for the Mississippi parcels available at the BLM Southeastern States District Office, and on the BLM’s NEPA Register website. The document was available for a 30-day public comment period from May 17, 2018 to June 18, 2018. BLM did not receive any comments on the EA or FONSI.

Supplementary Greenhouse Gas Analysis

After the signing of the FONSI on March 28, 2019, the BLM prepared an amendment to incorporate a greenhouse gas and climate change analysis. The BLM did not release the GHG analysis for a public comment period as the results of the analysis showed there will be no significant effect to the quality of the human environment, and therefore the impacts are bounded by the findings of the original EA. The BLM amended the FONSI to reflect the additional analysis. The District Manager signed the amended FONSI on May 8, 2019.

MS Leasing EA Consultations

Tribal and Historical

During the NEPA process, the BLM determined that there were no known archaeological sites eligible for or listed in the National Register of Historic Places within the parcels. The BLM corroborated this determination with the Mississippi State Historic Preservation Office through informal coordination between January 26 and February 28, 2018. The BLM also determined that there are no known sites of cultural importance to Native Americans. To further inform this determination, the BLM coordinated with Native American tribes¹ from January 26, 2018, to February 1, 2018. Two tribes responded in writing from February 20-28, 2018, recommending that cultural resource studies are warranted prior to approval of any development proposals. The Jena Band of Choctaw Indians response of February 20, 2018, requested the completion of site-specific Section 106 obligations prior to the onset of any ground disturbing activities. The Choctaw Nation of Oklahoma requested continuing cultural consultation once cultural resource survey reports are completed. Consistent with the tribal requests, BLM stipulations provide for cultural resources

¹ Mississippi Band of Choctaw Indians, Choctaw Nation of Oklahoma, Jena Band of Choctaw, Seminole Nation of Oklahoma, Alabama-Coushatta Tribe of Texas, Coushatta Indian Tribe, Tunica-Biloxi Tribe of Louisiana, Seminole Tribe of Florida, Thlopthlocco Tribal Town, Kialagee Tribal Town

surveys prior to any ground disturbing activities. If unknown cultural resources are discovered, they will be addressed through site-specific NEPA. Therefore, no effect to cultural resources will occur.

Endangered Species Act

During the NEPA process, the BLM determined that there will be “No Effect” to 10 listed species, specifically the gulf sturgeon (*Acipenser oxyrinchus desotoi*), pearl darter (*Percina aurora*), Alabama red-bellied turtle (*Pseudemys alabamensis*), green sea turtle (*Chelonia mydas*), Kemp’s Ridley sea turtle (*Lepidochelys kempii*), leatherback sea turtle (*Caretta caretta*), loggerhead sea turtle (*Dermochelys coriacea*), piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*) and the West Indian manatee (*Trichechus manatus*). This determination was made based on the lack of suitable habitat. Due to the findings of No Effect, Section 7 consultations with the FWS, for these species, are not necessary or required. However, the BLM also determined a “may affect not likely to adversely affect” for 7 species, specifically the black pine snake, dusky gopher frog, gopher tortoise, Louisiana quillwort, red cockaded woodpecker, yellow blotched map turtle and the Mississippi sandhill crane. Therefore, the BLM conducted and completed informal consultation with the U.S. Fish and Wildlife Service (FWS) to comply with the ESA Section 7 consultation requirements. The BLM initiated informal consultation with USFWS on April 10, 2018, and received a concurrence letter on April 30, 2018, consistent with BLM’s determination that the proposed action “may affect but would not likely adversely affect” federally listed species. The FWS concurred with the BLM’s “may effect” determination based on the understanding that the Proposed Action itself does not authorize surface disturbance activities and that further ESA consultation will be required if it is found that there is suitable habitat for any of the species at the more specific project site at the APD stage.

LA Leasing EA Alternatives

The leasing EA analyzed two alternatives: the Proposed Action and the No Action Alternative.

Proposed Action- under the Proposed Action, BLM will lease 520.27 acres of federal minerals located in St. Mary’s and Iberville Parishes in Louisiana for potential future oil and gas development, and will subsequently offer the parcels up on a competitive lease sale that will grant successful bidders exclusive rights to explore and develop oil and gas reserves on the leases but will not authorize surface disturbing activities. Surface disturbance associated to the parcels is not part of this proposed action; however, for the purpose of facilitating the effects analysis, the BLM used a “reasonable foreseeable development scenario” for potential future wells that included the construction of a road, drilling pad, and reserve pit. However, the BLM must approve an APD before surface disturbance activities, related to oil and gas activities, can occur and this permit will require further site-specific NEPA analysis.

No Action Alternative- under the No Action alternative, the 520.27 acres of federal minerals located in St. Mary’s and Iberville Parishes in Louisiana will not be leased. Any revenues from leasing federal oil and gas will be lost.

LA Leasing EA Public Involvement

The leasing EA and unsigned FONSI, for the Louisiana parcels, was available at the BLM Southeastern States Field Office, and on the BLM’s NEPA Register website. The EA was posted on

ePlanning on September 24th, 2018. The BLM provided a point of contact for any public concerns or comments, and the BLM did not receive any comments on the EA or FONSI. The BLM signed the FONSI on March 19, 2019.

LA Leasing EA Consultations

Tribal and Historical

During the NEPA process, the BLM determined that there were no known archaeological sites eligible for or listed in the National Register of Historic Places within the parcels. The BLM collaborated with the Louisiana State Historic Preservation Office through informal coordination between the dates of July 3 and August 13, 2018. The BLM also determined that there were no known sites of cultural importance to Native Americans. To further inform this determination, the BLM coordinated with Native American tribes² between July 3 and August 2, 2018. Two tribes provided written responses on August 2, 2018. However, both the Thlopthlocco Tribal Town and the Choctaw Nation of Oklahoma deferred to the comments of other tribes with more interest and no other responses were received. Furthermore, BLM stipulations provide for cultural resources surveys prior to any ground disturbing activities. If unknown cultural resources are discovered, they will be addressed through site-specific NEPA. Therefore, no effect to cultural resources is expected to occur.

Endangered Species Act

During the NEPA process, the BLM determined that there will be “No Effect” to 10 listed species, specifically the West Indian manatee (*Trichechus manatus*), piping plover (*Charadrius melodus*), red knot (*Calidris canutus rufa*), Atlantic sturgeon (*Acipenser oxyrinchus desotoi*), pallid sturgeon, green sea turtle (*Chelonia mydas*), hawksbill sea turtle (*Eretmochelys imbricata*), Kemp’s Ridley sea turtle (*Lepidochelys kempii*), loggerhead sea turtle (*Dermochelys coriacea*) and leatherback sea turtle (*Caretta caretta*). This determination was made on the basis that the Proposed Action will incur no surface disturbance. Due to the findings of No Effect, Section 7 consultations with the United States Fish and Wildlife Service were not necessary or required.

Supplementary Greenhouse Gas Analysis

After the signing of the FONSI on March 28, 2019, the BLM prepared an amendment to incorporate a greenhouse gas and climate change analysis. The BLM did not release the GHG analysis for a public comment period as the results of the analysis showed there will be no significant effect to the quality of the human environment, and therefore the impacts were bounded by the original EA. The FONSI was amended to reflect the additional analysis. The District Manager signed the amended FONSI on May 8, 2019.

DECISION

It is my decision to authorize the internet-based competitive leasing of the 18 parcels in MS and LA comprising approximately 1,720.10 acres of public domain and acquired minerals. The BLM is the leasing authority for all federal minerals under the Mineral Leasing Act of 1920, as amended, and the Mineral Leasing Act for Acquired Lands of 1947. Consistent with this authority, I have chosen

² Alabama-Coushatta Tribe of Texas, Alabama Quassarte, Choctaw Nation, Coushatta Indian Tribe, Jena Band of Choctaw, Kialagee Tribal Town, Mississippi Band of Choctaw, Muscogee (Creek) Nation, Thlopthlocco Tribal Town, Tunica-Biloxi Tribe of Louisiana

to implement the Proposed Action. As part of my decision, I direct that the leases shall include the terms, conditions, and stipulations that are needed to ensure compliance with the requirements set forth in 40 C.F.R. Part 3120. (Attachments 1 and 2).

Therefore, if a qualified party successfully bids upon a parcel, the BLM will issue a competitive lease pursuant to 43 CFR Part 3120.

RATIONALE FOR DECISION

I have selected the Proposed Action because I have determined that it best fits the purpose and need for action as presented in the leasing EAs. In deciding to select the Proposed Action, I have reviewed the leasing EAs and the BLM’s Findings of No Significant Impact (FONSI). I have considered the potential impacts presented within these documents and I have weighed the context and intensity of the potential impacts against the Purpose and Need for the Proposed Action.

Compliance with Applicable Laws and Land Use Plans: I have determined that the Proposed Action has been analyzed in compliance with major environmental laws that are pertinent to this decision. All necessary and required analysis, including under the National Historic Preservation Act (NHPA) and Endangered Species Act (ESA) are complete.

Consideration of Mitigation Measures: I have concluded that the Proposed Action with consideration to lease stipulations and best management practices, demonstrates that all necessary practicable and reasonable means to avoid or minimize environmental harm have been adopted and/or recommended (Attachments 1 and 2). The incorporation of the stipulations into the lease will ensure that these measures are enforced.

Finding of No Significant Impact: The Proposed Action will not have a significant impact to the human environment or result in unnecessary or undue degradation of public lands and resources. The FONSI is sufficient and the preparation of an Environmental Impact Statement is not required.

AUTHORITIES

The authority for this decision is contained in the Mineral Leasing Act of 1920, as amended; the Mineral Leasing Act for Acquired Lands of 1947, as amended; the Federal Land Policy and Management Act (FLPMA) of 1976; and the Energy Policy Act of 2005.

TERMS/CONDITIONS/STIPULATIONS

Standard terms and conditions, as well as the lease notices and stipulations, identified within the Sale Notice and Errata 1, will apply and be attached to the lease parcels. These stipulations are provided in Attachments 1 and 2.

APPEAL

This Decision is subject to Appeal under 43 CFR 4.470, 4160.3 (c) and 4160.4. For instructions on how to file an appeal, please see Attachment 3. Please note that **due to security concerns the BLM will not accept protests or appeals sent by electronic mail. BLM will also not accept documents via electronic storage devices (e.g. CD, thumb drive, etc.).**


Karen E. Mouritsen
State Director, BLM Eastern States

10-26-19
Date

Attachment 1: Stipulations for Mississippi Parcels
Attachment 2: Stipulations for Louisiana Parcels
Attachment 3: Appeals Procedures and Form 1842-1

Attachment 1: Stipulations for Mississippi Parcels

BLM Lease Stipulations and Notices for Minerals Located in Mississippi

Cultural Resources and Tribal Consultation

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. These obligations may include a requirement that you provide a cultural resources survey conducted by a professional archaeologist approved by the State Historic Preservation Office (SHPO). If currently unknown burial sites are discovered during development activities associated with this lease, these activities must cease immediately, applicable law on unknown burials will be followed and, if necessary, consultation with the appropriate tribe/group of federally recognized Native Americans will take place. The BLM may require modification to exploration or development proposals to protect such properties, or disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized or mitigated.

Endangered Species

Stipulation: 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 proposals to further its conservation and management objective to avoid BLM-approved activity that will contribute to a need to list such a species or their habitat. BLM may require modifications to or disapprove proposed activity that is likely to result in jeopardy to the continued existence of a proposed or listed threatened or endangered species or result in the destruction or adverse modification of a designated or proposed critical habitat. BLM will not approve any ground-disturbing activity that may affect any such species or critical habitat until it completes its obligations under applicable requirements of the Endangered Species Act as amended, 16 U.S.C. § 1531 *et seq.*, including completion of any required procedure for conference or consultation.

Exception: None

Modification: None

Waiver: None

Sensitive Plant Species

Stipulation (CSU): All suitable special status plant species habitat will be identified during environmental review of any proposed surface use activity. If field examination indicates that habitat of one or more of these species is present, the BLM will require a survey by a qualified botanist for special status plants during periods appropriate to each species. Operations will not be allowed in areas where sensitive plants would be affected.

Objective: To protect threatened, endangered, candidate, proposed, and BLM sensitive plant species.

Exception: An exception may be granted if the operator agrees to implement measures developed in consultation with the USFWS and in coordination with State agencies.

Modification: The stipulation may be modified if it is determined that a portion of the lease area does not contain sensitive plant species habitat.

Waiver: The stipulation may be waived if, based on field surveys, it is determined that the lease area does not contain sensitive plant species habitat.

Freshwater Aquatic Habitat – Applies to EOI #s 2000, 2005, 2045, 2047, 2049, 2050, 2053, 2054, 2056, 2060, 2061, 2096, 2097, 2100, 2101, 2102.³

Stipulation (NSO): No surface occupancy or disturbance, including discharges, are permitted within 250 feet of a river, stream, wetland spring, headwater, wet meadow, wet pine savanna, pond, tributary, lake, coastal slough, sand bar, vernal pools, calcareous seepage marsh, or small, marshy calcareous stream. This buffer may be extended to 600 feet where the slope exceeds 10 percent and to protect vernal pools in southeastern Mississippi between Highways 98 and 59 providing suitable habitat for endangered Mississippi gopher frog.

Objective: To protect water quality of watersheds and natural stream substrate and morphology and to avoid potential impacts to federal and state-listed aquatic species.

Exception: An exception may be granted if the operator agrees to 1) span creeks and floodplains by attaching pipelines to bridges or 2) directionally drill under creeks, rivers, and other waters supporting listed species, 3) implement other measures developed in consultation with USFWS and coordination with state agencies.

Modification: The buffer may be reduced if the adjacent waterway has been surveyed for 100 yards upstream and 300 yards downstream of the site, and results document the lack of suitable/occupied habitat for special status species within the mixing zone downstream of the project, as determined by BLM and USFWS.

Waiver: The stipulation may be waived if it is determined that the lease area has no hydrological connection to habitat of sensitive aquatic species.

Gopher Tortoise Black Pine Snake Eastern Indigo Snake Dusky Gopher Frog – Applies to EOI #s 2000, 2005, 2045, 2047, 2050, 2054, 2061, 2096, 2097, 2100, 2101, 2102.⁴

Stipulation (CSU): BLM-approved surveys will be required in all suitable gopher tortoise habitat where the tortoise is listed, including: Choctaw, Washington, Sumter, and Mobile counties in Alabama; and Clarke, Covington, Forrest, George, Greene, Hancock, Harrison, Jackson, Jones, Jasper, Jefferson Davis, Lamar, Marion, Pearl River, Perry, Smith, Stone, Walthall, and Wayne

³ The list of EOIs that are subject to the Freshwater Aquatic Habitat stipulation has been edited from the version in EA ES-020-2018-14. EOI numbers that are not offered at the June 2019 lease sale have been deleted.

⁴ The list of EOIs that are subject to the Gopher Tortoise, Black Pine Snake, Eastern Indigo Snake, Dusky Gopher Frog stipulation has been edited from the version in EA ES-020-2018-14. EOI numbers that are not offered at the June 2019, lease sale have been deleted.

Counties in Mississippi. No surface disturbance or activity is permitted within 600 feet of a gopher tortoise burrow.

Suitable habitat includes areas with deep, well-drained and excessively well-drained sandy soils, especially the following USDA–NRCS soil series and with an open understory with grass and forb groundcover open areas. Suitable soils include Alaga, Bama, Basin, Baxterville, Benndale, Bigbee, Boswell, Eustis, Freest, Freestone, Heidel, Lakeland, Lorman, Lucedale, Lucy, Malbis, McLaurin, Petal, Poarch, Prentiss, Ruston, Saucier, Savannah, Troup, Shuguta, Smithdale, Susquehanna, and Wadley.

Objective: To protect habitat for gopher tortoise and other commensal species, including eastern indigo snake and gopher frog.

Exception: Exceptions may be granted if the proponent agrees to implement measures developed in consultation with USFWS and coordination with state agencies.

Modification: This stipulation may be modified if suitable gopher tortoise habitat does not exist on the stipulated area and that area does not provide forage habitat for adjacent tortoise populations. Survey requirements may be modified if current tortoise surveys of the tract are approved by BLM and USFWS.

Waiver: This stipulation may be waived if suitable gopher tortoise habitat does not exist on the tract and the tract does not provide forage habitat for gopher tortoises in adjacent areas.

Red-Cockaded Woodpecker – Applies to EOI #s 2045, 2047, 2054, 2096, 2097, 2100, 2101, 2102.⁵

Stipulation (NSO): No surface occupancy or disturbance within 0.5 mile of a red-cockaded woodpecker cluster, defined as the area containing all active and inactive cavity trees and a 200-foot buffer zone surrounding that area. Vehicle use is prohibited within a cluster except for through-travel on existing, maintained, paved roads.

Objective: To protect red-cockaded woodpecker nest sites from disturbance and habitat degradation.

Exception: An exception may be granted to allow surface occupancy within 0.5 mile of a cluster if the operator agrees to measures developed in consultation with USFWS and in coordination with State agencies.

Modification: This stipulation may be modified if a portion of the stipulated area is no longer within the 0.5-mile buffer zone.

Waiver: This stipulation may be waived if no cluster can be identified within 0.5 mile of the leased tract.

⁵ The list of EOIs that are subject to the Red-Cockaded Woodpecker stipulation has been edited from the version in EA ES-020-2018-14. EOI numbers that are not offered at the June 2019, lease sale have been deleted.

LEASE NOTICES/BEST MANAGEMENT PRACTICES

Migratory Birds and Federally Listed Wildlife

Objective: To protect perch and roosting sites and terrestrial habitats for and to avoid potential impacts to migratory birds and federally listed wildlife.

Any reserve pit that is not closed within 10 days after a well is completed and that contains water must be netted or covered with floating balls, or another method must be used to exclude migratory birds.

All power lines must be built to protect raptors and other migratory birds, including bald eagles, from accidental electrocution, using methods detailed by the Avian Power Line Interaction Committee (APLIC 2006).

Perching and Nesting Birds and Bats

Objective: To prevent birds and bats from entering or nesting in or on open vent stack equipment.

Open vent stack equipment, such as heater-treaters, separators, and dehydrator units, will be designed and constructed to prevent birds and bats from entering or nesting in or on such units and, to the extent practical, to discourage birds from perching on the stacks. Installing cone-shaped mesh covers on all open vents is one suggested method. Flat mesh covers are not expected to discourage perching and will not be acceptable.

Invasive and Non-Native Species

Objective: To discourage the spread of invasive, non-native plants.

Use of native or non-invasive plants in seeding mixtures will be encouraged to stabilize disturbed areas and during restoration activities. Construction sites will be surveyed for invasive species prior to ground disturbance. If invasive species are found, the proper control measures will be used to either eradicate the species from the area or minimize its spread to other areas. If cogongrass is found on site, equipment will be washed before exiting the site to prevent the spread of this highly invasive species to other locations. Post-construction monitoring for cogongrass and other invasive plant species should be conducted to ensure early detection control. In the case of split-estate lands, final seed mixtures will be formulated in consultation with the private landowner.

Pesticide Application

Objective: To protect the water quality of watersheds and natural stream substrate and morphology supporting special status species and their host species.

Any ground application of herbicides or other pesticides, sterilants, or adjuvants within 150 feet of listed species or habitat will require site-specific control measures developed in coordination or formal consultation with USFWS. No aerial application of herbicides or pesticides will be permitted.

Attachment 2: Stipulations for Louisiana Parcels

BLM Lease Stipulations and Notices for minerals located in Louisiana

STIPULATIONS

Cultural Resources and Tribal Consultation

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. These obligations may include a requirement that you provide a cultural resources survey conducted by a professional archaeologist approved by the State Historic Preservation Office (SHPO). If currently unknown burial sites are discovered during development activities associated with this lease, these activities must cease immediately, applicable law on unknown burials will be followed and, if necessary, consultation with the appropriate tribe/group of federally recognized Native Americans will take place. The BLM may require modification to exploration or development proposals to protect such properties, or disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized or mitigated.

Endangered Species

Stipulation: 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 proposals to further its conservation and management objective to avoid BLM-approved activity that will contribute to a need to list such a species or their habitat. BLM may require modifications to or disapprove proposed activity that is likely to result in jeopardy to the continued existence of a proposed or listed threatened or endangered species or result in the destruction or adverse modification of a designated or proposed critical habitat. BLM will not approve any ground-disturbing activity that may affect any such species or critical habitat until it completes its obligations under applicable requirements of the Endangered Species Act as amended, 16 U.S.C. § 1531 *et seq.*, including completion of any required procedure for conference or consultation.

Exception: None

Modification: None

Waiver: None

Sensitive Plant Species

Stipulation (CSU): All suitable special status plant species habitat will be identified during environmental review of any proposed surface use activity. If field examination indicates that habitat of one or more of these species is present, the BLM will require a survey by a qualified botanist for special status plants during periods appropriate to each species. Operations will not be allowed in areas where sensitive plants would be affected.

Objective: To protect threatened, endangered, candidate, proposed, and BLM sensitive plant species.

Exception: An exception may be granted if the operator agrees to implement measures developed in consultation with the USFWS and in coordination with State agencies.

Modification: The stipulation may be modified if it is determined that a portion of the lease area does not contain sensitive plant species habitat.

Waiver: The stipulation may be waived if, based on field surveys, it is determined that the lease area does not contain sensitive plant species habitat.

Freshwater Aquatic Habitat

Stipulation (NSO): No surface occupancy or disturbance, including discharges, are permitted within 250 feet of a river, stream, wetland spring, headwater, wet meadow, wet pine savanna, pond, tributary, lake, coastal slough, sand bar, vernal pools, calcareous seepage marsh, or small, marshy calcareous stream. This buffer may be extended to 600 feet where the slope exceeds 10 percent and to protect vernal pools in southeastern Mississippi between Highways 98 and 59 providing suitable habitat for endangered Mississippi gopher frog.

Objective: To protect water quality of watersheds and natural stream substrate and morphology and to avoid potential impacts to federal and state-listed aquatic species.

Exception: An exception may be granted if the operator agrees to 1) span creeks and floodplains by attaching pipelines to bridges or 2) directionally drill under creeks, rivers, and other waters supporting listed species, 3) implement other measures developed in consultation with USFWS and coordination with state agencies.

Modification: The buffer may be reduced if the adjacent waterway has been surveyed for 100 yards upstream and 300 yards downstream of the site, and results document the lack of suitable/occupied habitat for special status species within the mixing zone downstream of the project, as determined by BLM and USFWS.

Waiver: The stipulation may be waived if it is determined that the lease area has no hydrological connection to habitat of sensitive aquatic species.

LEASE NOTICES/BEST MANAGEMENT PRACTICES

Migratory Birds and Federally Listed Wildlife

Objective: To protect perch and roosting sites and terrestrial habitats for and to avoid potential impacts to migratory birds and federally listed wildlife.

Any reserve pit that is not closed within 10 days after a well is completed and that contains water must be netted or covered with floating balls, or another method must be used to exclude migratory birds.

All power lines must be built to protect raptors and other migratory birds, including bald eagles, from accidental electrocution, using methods detailed by the Avian Power Line Interaction Committee (APLIC 2006).

Perching and Nesting Birds and Bats

Objective: To prevent birds and bats from entering or nesting in or on open vent stack equipment.

Open vent stack equipment, such as heater-treaters, separators, and dehydrator units, will be designed and constructed to prevent birds and bats from entering or nesting in or on such units and, to the extent practical, to discourage birds from perching on the stacks. Installing cone-shaped mesh covers on all open vents is one suggested method. Flat mesh covers are not expected to discourage perching and will not be acceptable.

Invasive and Non-Native Species

Objective: To discourage the spread of invasive, non-native plants.

Use of native or non-invasive plants in seeding mixtures will be encouraged to stabilize disturbed areas and during restoration activities. Construction sites will be surveyed for invasive species prior to ground disturbance. If invasive species are found, the proper control measures will be used to either eradicate the species from the area or minimize its spread to other areas. If cogongrass is found on site, equipment will be washed before exiting the site to prevent the spread of this highly invasive species to other locations. Post-construction monitoring for cogongrass and other invasive plant species should be conducted to ensure early detection control. In the case of split-estate lands, final seed mixtures will be formulated in consultation with the private landowner.

Pesticide Application

Objective: To protect the water quality of watersheds and natural stream substrate and morphology supporting special status species and their host species.

Any ground application of herbicides or other pesticides, sterilants, or adjuvants within 150 feet of listed species or habitat will require site-specific control measures developed in coordination or formal consultation with USFWS. No aerial application of herbicides or pesticides will be permitted.

Attachment 3: Appeals Procedures

APPEAL PROCEDURES

In accordance with 43 CFR 4.470, 4160.3 (c) and 4160.4, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision. In accordance with 43 CFR 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.471 and 4160.3(c), an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after the date the proposed decision becomes final or 30 days after receipt of the final decision.

The appeal and any petition for stay must be filed at the office of the authorized officer, Authorized Officer, Eastern States Office, 20 M Street SE, Suite 950, Washington, DC 20003. **Due to security concerns the BLM will not accept protests or appeals sent by electronic mail. BLM will also not accept documents via electronic storage devices (e.g. CD, thumb drive, etc.).** Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal, and any petition for stay, on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor at the address indicated on the attached Form 1842-1.

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.

STANDARDS FOR OBTAINING A STAY

Except as otherwise provided by law or other pertinent regulation, 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.

Attach Form 1842-1 here

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

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- 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).
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- 2. WHERE TO FILE**..... Bureau of Land Management
Eastern States Office
20 M Street SE, Suite 950
Washington D.C. 20003
- NOTICE OF APPEAL**.....
- WITH COPY TO SOLICITOR**..... Regional Solicitor, Southeast Region
U.S. Department of the Interior
75 Spring Street, SW., Suite 304
Atlanta, Georgia 30303
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- 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**..... Regional Solicitor, Southeast Region
U.S. Department of the Interior
75 Spring Street, SW., Suite 304
Atlanta, Georgia 30303
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- 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).
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- 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)).
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- 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.

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.

(Form 1842-1, September 2006)