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## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

New Mexico State Office

P.O. Box 27115

Santa Fe, New Mexico 87502-0115

[www.blm.gov/nm](http://www.blm.gov/nm)



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**JAN 04 2018**

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**7013 1710 0001 6581 3071**

City of Corpus Christi  
Attn: Margie C. Rose, City Manager  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

### **DECISION**

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### **JUNE 8, 2017 OIL & GAS LEASE SALE PROTEST OF TWO PARCELS PROTEST DENIED**

### **ALL PROTESTED PARCELS WILL BE ISSUED**

On February 15, 2017, the United States (US) Department of the Interior (DOI) Bureau of Land Management (BLM) New Mexico State Office (NMSO) timely received a telefax from the City of Corpus Christi, Texas protesting the offering of two parcels, NM-201704-009 and NM-201704-010, as described in the Notice of Competitive Lease Sale for the June 8, 2017, Competitive Oil and Gas Lease Sale (Sale Notice).

The two parcels protested are located in Live Oak and McMullen Counties of southern Texas. The parcels are unleased Federal mineral estate administered by the BLM Oklahoma Field Office (OFO) with the surface estate administered by the US DOI Bureau of Reclamation (BOR). Altogether, the protested parcels aggregate approximately 1,611.54 acres.

### **BACKGROUND**

The BLM follows the mandates of the Mineral Leasing Act of 1920 (MLA), as amended (30 U.S.C. 181 *et seq.*), and the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, to make mineral resources available for disposal and to manage for multiple resources which include the development of mineral resources to meet national, regional, and local needs.

In accord with those mandates, among others, the BLM NMSO conducts a quarterly competitive lease sale to offer available oil and gas lease parcel(s) in New Mexico, Oklahoma, Texas, and Kansas. A Sale Notice, which lists the lease parcels to be offered at the auction, is published by the NMSO at least 45 days before the auction is held. Lease stipulations applicable to each parcel are specified in the Sale Notice. The decision as to which public lands and minerals are open for leasing and what leasing stipulations are necessary, based on information available at the time, is made during the land use planning process Resource Management Plan (RMP). Surface management of non-BLM administered land overlaying federal minerals is determined by the BLM in consultation with the appropriate surface management agency (SMA).

In the process of preparing a lease sale the NMSO sends a draft parcel list to any Field Offices in which a parcel is located. Field Office staff then review the legal descriptions of the parcel(s) to determine if they are in areas open to leasing; if new information has become available which might change any analysis conducted during the planning process; if appropriate consultations have been conducted; what appropriate stipulations should be included; and if there are special resource conditions of which potential bidders should be made aware.

The parcels were nominated for this sale by interested parties in accordance with 43 CFR § 3120.3. After adjudication of the nominated parcels by the NMSO, the parcels were reviewed by the BLM field office and an Environmental Assessment (EA) was prepared to ensure leasing of the parcels would be in conformance with National Environmental Policy Act (NEPA) and the field office RMP's<sup>1</sup> (Oklahoma RMP [1994], as amended; and the Texas RMP [1996], as amended).

The EA documents the field office review of the parcels nominated for the Lease Sale. The review by the field office included interdisciplinary team analysis, field visits to nominated parcels, review for conformity with the land use decisions for the planning area, and preparation of an EA documenting NEPA compliance. The NMSO also reviewed each of the parcels, and confirmed plan conformance and conformance with national and state BLM policies. As cited in the EA, the BLM tiered the analysis to the RMP Environmental Impact Statement (EIS) and Record of Decision (ROD).

The preliminary parcel list was posted for two-week public scoping period August 15, 2016 through August 29, 2016. The 30-day public comment period of the EA and unsigned Finding of No Significant Impact (FONSI) commenced on October 24, 2016. The protesting party provided comments to the BLM during the 30-day comment period that were considered during the NEPA process. The protesting party's comments stated their concern with the leasing of these parcels due to the risk it may cause to the safety of the water quality and supply within the Choke Canyon Reservoir. Specifically the protesting party wanted clarification as to the definition of the applied No Surface Occupancy (NSO) lease stipulation (which was addressed in the EA Appendix 1). On January 18, 2017 the 30-day Protest Period commenced and a protest, among

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<sup>1</sup> Available at: <https://eplanning.blm.gov/epl-front-office/eplanning/planAndProjectSite.do?methodName=dispatchToPatternPage&currentPageId=107477>

others, was received from the protesting party on February 15, 2017. It was requested that two parcels be removed from the sale.

On June 8, 2017 the BLM conducted the Competitive Oil and Gas Lease Sale during which all of the protest parcels were successfully bid upon, and the necessary monies were subsequently received by the BLM. Given the pending protest, the BLM has not issued the leases.

## **ISSUES**

The following responses will address the protesting party's arguments related to the two parcels. The BLM has reviewed the protesting party's arguments in their entirety and the substantive arguments are numbered and summarized in bold, with BLM responses following.

### **1. The City of Corpus Christi was never directly notified of the competitive oil and gas lease sale**

#### **BLM Response:**

The protesting party believes that the BLM never directly notified the City of Corpus Christi of the competitive oil and gas lease sale nor consulted with to identify possible stipulations to address their concerns (protesting party's protest at page 3) despite their participation in the 30-day Comment Period. The regulations and BLM policy do not specify how the public shall be notified. The BLM posted the lease parcels as well as public involvement period information on its website. Additionally, the BLM issued a News Release prior to the two-week public scoping period (see Enclosure 1). Through coordination and feedback with the other federal SMAs pertinent to this sale, this News Release was also sent directly to 32 parties from local state agencies, communities, and local and regional media outlets for dissemination on August 15, 2016; three of which included employees of the City of Corpus Christi. Those parties are identified below:

- Associated Press (Barry Bedlan; Diana Heidgerd; AP in Oklahoma)
- Brenham Banner-Press (Arthur Hahn)
- CBS Radio (Jay Cresswell)
- Cheyenne Star
- Denton Record-Chronicle
- Fairview Republican
- Houston Chronicle (Al Lewis; Houston Chronicle Investigations)
- Lexington Leader
- NBC-Fort Worth (Brian Scott)
- North Texas Daily
- Star Local Media (Lorelei Day; Chris Roark)
- Texas Conservation Alliance
- Texas Parks & Wildlife Department (Dennis Gissell; Stephen Lange; Oscar Jaimez; David Nieto; Ted Hollingsworth; Rudy Mesa)
- The City of Corpus Christi (Dan Grimsbo; Stephen Emerson; Ralph Martinez)

- The Cross Timbers Gazette
- The Dallas Morning News (Jeff Mosier)
- The Eagle (Editorial; News)
- The Elk City Daily News
- The Lewisville Texan Journal (Steve Southwell)
- The Oklahoman (Amy Raymond)

Therefore, the statement of reason has been found to be without merit and is denied.

**2. The City of Corpus Christi is not aware of any independent analysis or recommendations identifying potential risks and hazards with regards to this lease sale.**

BLM Response:

The protesting party states that they are unaware of independent engineering analysis that assesses the risk to the outlet structures. The BLM finds that this analysis is premature at the leasing stage since it is uncertain if an Application for Permit to Drill (APD) for the leased parcels would be received, nor is it known if or to what extent development would occur (see EA at Section 2.2). The BLM has undertaken analysis of the known and anticipated programmatic impacts of this lease sale. If and when an APD is submitted to produce from these leases, the BLM will undertake additional analysis regarding the site-specific and scope of environmental impacts anticipated.

Furthermore, all of the protested parcels contain a lease stipulation stating that “No surface access or surface occupancy is allowed. Drilling beneath Choke Canyon Reservoir (defined by the published maximum water surface elevation of 233 feet [mean sea level] msl) is prohibited unless approved by Regional Director contingent upon completion of a risk analysis. All areas within 2,000 feet of any major structure, including but not limited to the dam, spillway, or embankment, are restricted areas. Drilling operations in, on, or under the restricted areas, including drilling outside of the restricted areas which would cause a bore hole to be under the restricted area, will not be permitted. All storage tanks and slush pits will be protected by dikes of sufficient capacity to protect the reservoir from pollution to maximum water surface elevation 233 ft. for Choke Canyon Reservoir.” See Section 2.2 and Appendix 1 of the EA. This lease stipulation was applied to the protested parcels to ensure that if future development were to occur, it would be done in a manner to minimize any potential risks to infrastructure, water quality and quantity, and other potentially affected resources.

Additionally, the City of Corpus Christi was provided a letter dated March 16, 2017 from the DOI BOR and is attached as Enclosure 2. The letter states that BOR had coordinated with a specialized geotechnical engineering contractor to analyze oil and gas development risks to Choke Canyon Reservoir and Dam. A copy of the Decision Document and Technical Report of Findings for Nearby Mineral Exploitation Risk Analysis for Choke Canyon Dam was transmitted to Mr. Gustavo Gonzalez at the City of Corpus Christi on August 9, 2011. The 2011 transmittal letter states that the conclusions are site and extraction method specific and that there “would be

no significant increase in dam safety risk resulting from potential surface deformations” and that “the dam is considered to be well constructed with a modern design.”

Therefore, the statement of reason has been found to be without merit and is denied.

**3. The proposed stipulations included with the leases do not adequately protect the water quality or supply within the Choke Canyon Reservoir.**

BLM Response:

The protesting party acknowledges that although the lease stipulation that is attached to the protested parcels states that the parcels cannot be accessed or occupied, they allege that there is often exposed lake bed below 233 feet msl and could prompt access or surface occupancy by lessees. Further, the protester states that the protested parcels are “extremely close to the City’s outlet structure.”

The BLM finds that the protester failed to provide evidence to support their claim that the lease stipulations applied to the protested parcels are inadequate. As previously stated in issue 1 above, a no surface occupancy lease stipulation is applied to the protested parcels which prevents access or occupancy below 233 feet of mean sea level (see EA Appendix 1). Further, the lease stipulation applies a restriction prohibiting drilling within and under 2,000 feet of any major structure, including but not limited to the dam, spillway, or embankment (see EA Appendix 1). This 2,000-foot restriction would apply to the City’s outlet structures as described in their protest. Given the advancement and ongoing horizontal drilling within the locale, it is likely that the protested leases would be accessed from existing well pad locations. As stated in EA Sections 2.2 and 4.3.3, if a proposal for development is submitted, site specific analysis would be conducted during APD processing; any assumptions made at the leasing stage with regards to development of these leases is speculative.

Therefore, the statement of reason has been found to be without merit and is denied.

**4. The City learned that the State of Texas General Land Office has issued two oil and gas leases overlying 12.56 gross acres of Tract NR-9 which appears to be located within the same area as the proposed parcels.**

BLM Response:

The BLM finds that Tract NR-9 containing 12.56 acres is not underlying the lands analyzed or considered for this lease sale. The tract of land that the protesting party brings forward is unrelated to this lease sale and is already allocated to existing federal oil and gas leases. See Enclosures 3 and 4 which contains the serial register page for TXNM119324 and TXNM119826. Furthermore the protesting party did not disclose this issue during the public involvement period. Additionally, your reliance on 43 CFR § 3101.8 is misplaced because that regulation applies to state ownership of the surface over Federally-owned minerals. The two parcels protested here consist of unleased Federal mineral estate administered by the BLM OFO with the surface estate

administered by the US DOI BOR. As such, both the mineral and surface estate are owned by the United States and administered by DOI.

Therefore, the statement of reason has been found to be without merit and is denied.

## **DECISION**

After a careful review, it has been determined that the protests of the two parcels sold in the June 8, 2017 Competitive Oil and Gas Lease Sale will be denied for the reasons described above. All of the protested parcels as described in the Sale Notice will be issued.

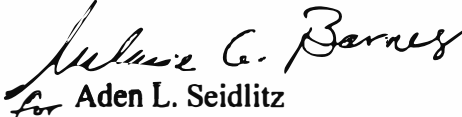
This Decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR Part 4 and Form 1842-1 (Enclosure 5). If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from your receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the Decision appealed from is in error.

If you wish to file a Petition for a Stay of this Decision, pursuant to 43 CFR Part 4, the Petition must accompany your Notice of Appeal. 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 the Decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 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 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.

  
for Aden L. Seidlitz  
Acting State Director

**5 Enclosures**

- 1 - News Release
- 2 - Bureau of Reclamation Letter to the City of Corpus Christi
- 3 - TXNM119324 Serial Register Page
- 4 - TXNM119826 Serial Register Page
- 5 - Form 1842-1

cc: w/o enclosures  
Office of the Solicitor  
Southwest Regional Office  
505 Marquette Avenue, NW  
Albuquerque, NM 87102

Oklahoma-Texas Area Office  
Bureau of Reclamation  
Attn: Mark Treviño, Area Manager  
5316 Hwy 290 W., Suite 110  
Austin, TX 78735

NM9210, R. Klein  
NM9210, Fluids Adjudication  
NM00400, R. Pawelek





# News Release

Oklahoma Field Office, New Mexico

For Additional Information:  
Allison Sandoval, 505-954-2019

## BLM Opens Public Scoping for April 19, 2017 Oil and Gas Lease Sale

The Bureau of Land Management (BLM) has opened a 15-day public scoping period on 18 nominated oil and gas lease parcels located in Oklahoma and Texas. The lease sale is tentatively scheduled for April 19, 2017. The final acreage amount will be determined after the full public review process. The public scoping period will end on August 29, 2016. A parcel list and maps are available at:

[http://www.blm.gov/nm/st/en/prog/energy/oil\\_and\\_gas/lease\\_sale\\_notices/2017\\_lease\\_sales/april\\_2017\\_lease\\_sale.html](http://www.blm.gov/nm/st/en/prog/energy/oil_and_gas/lease_sale_notices/2017_lease_sales/april_2017_lease_sale.html).

This public scoping process is intended to solicit input on issues, impacts, and potential alternatives that the BLM will address in an upcoming National Environmental Policy Act document, and is only the first of several opportunities for the public to comment on this oil and gas lease sale.

The BLM will consider, to the extent feasible, all written and substantiated comments received during the comment period. Comments received at other times throughout the leasing process may not require a formal response. The BLM uses the comments to improve the document and analyses, and to adequately determine resource concerns before the agency issues a final decision on the proposed action. The most effective comments are those that provide information that may not be readily known to the BLM. Please be advised that comments are not counted as votes, or as a part of a referendum on the BLM's decision.

The public is welcome to contribute comments regarding these lease parcel nominations via email at: [NMleasecomments@blm.gov](mailto:NMleasecomments@blm.gov), or by mail at: BLM Oklahoma Field Office, Attention: Pat Stong, 7906 E. 33rd Street, Suite 101, Tulsa, Oklahoma 74145-1352.

Those who provide comments are advised that before including their address, phone number, email address, or other personal identifying information, they should be aware that the entire comment – including the personal identifying information – may be made publicly available at any time. While those commenting can ask in their comments to withhold personal identifying information from public review, the BLM cannot guarantee that they will be able to do so.

-BLM-

The BLM manages more than 245 million acres of public land, the most of any Federal agency. This land, known as the National System of Public Lands, is primarily located in 12 Western states, including Alaska. The BLM also administers 700 million acres of sub-surface mineral estate throughout the nation. The BLM's mission is to sustain the health, diversity, and productivity of America's public lands for the use and enjoyment of present and future generations. In Fiscal Year 2015, the BLM generated \$4.1 billion in receipts from activities occurring on public lands.





IN REPLY REF. TO  
OK-JA  
LND-600

## United States Department of the Interior

BUREAU OF RECLAMATION  
Great Plains Region  
Oklahoma-Texas Area Office  
5316 HWY 290 West, Suite 110  
Austin, TX 78735-8931

RECEIVED  
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Ms. Margie Rose  
City Manager  
City of Corpus Christi  
P. O. Box 9277  
Corpus Christi, TX 78469-9277

MAR 16 2017

Subject: Bureau of Land Management Lease Parcels NM-201704-009 and 010, Choke Canyon Dam and Reservoir, Nueces River Project, Texas (Your letter dated February 14, 2017)

Dear Ms. Rose:

The Bureau of Reclamation was copied on your subject letter addressed to the Bureau of Land Management (BLM) protesting the planned June 8, 2017 Competitive Oil and Gas Lease Sale. The lease sale includes approximately 1,611 mineral acres within the Reclamation Nueces River Project (Choke Canyon). The purpose of this letter is to provide background information related to hydrocarbon exploration and production at Choke Canyon; to provide additional context regarding the constraints and requirements associated with Reclamation's decisions to lease this acreage, and to correct a misunderstanding regarding the possibility of access or surface occupancy by oil and gas lessees on Federal land as described in your letter.

Reclamation's mission is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. Like the City of Corpus Christi, Reclamation considers public safety and protection of the environment paramount when considering any actions or alternatives which have the potential to impact project lands, infrastructure, or water supply.

### Background Information Regarding Mineral Leasing at Choke Canyon:

Reclamation constructed Choke Canyon Dam and Reservoir to provide a municipal and industrial water supply for the City of Corpus Christi (City) and other communities, and for recreation and fish and wildlife purposes.

Prior to construction, Reclamation acquired approximately 35,000 acres of land for Choke Canyon. When acquiring surface acreage, Reclamation acquired a variety of interests in the underlying mineral estate. These interests included acquiring 100% fee title in the mineral estate; acquiring fee title interest to a portion of the mineral estate; acquiring no mineral interest but subordinating the mineral estate to the United States fee title surface estate; and acquiring neither a mineral interest nor subordination of the mineral estate to the surface estate. Decisions

regarding acquisition of mineral interests at Choke Canyon were largely cost-driven since much of the project was located within the boundaries of an active oil and gas field with existing wells already producing from lands later purchased for the project.

For those surface tracts where the United States acquired all or some interest in the mineral estate (approximately 24,000 acres), BLM oversees mineral leasing, drilling, and production. When BLM receives an "expression of interest" to lease Federal minerals at a Reclamation project, they contact the Reclamation area office responsible for the project to determine whether or not Reclamation concurs with including those minerals in an upcoming mineral lease sale, and to obtain any special stipulations required to protect the United States interest.

Decisions regarding whether or not to include minerals in a lease sale have broad consequences. Reclamation must consider and ensure public safety and protection of water quality and infrastructure before agreeing to lease minerals; and likewise, Reclamation must also consider the consequences of withholding minerals from leasing. In particular, when the United States holds less than 100% of the mineral interest in a tract, such consequences could include an inverse condemnation (i.e., a legal taking) of privately held mineral interests in the same tract because refusing to lease the federal minerals would prevent the private mineral owners from developing their mineral interest as well. Considering the current value of mineral interests in the Eagle Ford Shale play, the financial impacts of such an inverse condemnation could be significant for the United States and possibly the City.

In addition to expressions of interest to lease minerals, Reclamation also receives requests to issue surface occupancy permits for mineral exploration and production on Choke Canyon tracts where the United States does not hold any interest in the mineral estate (approximately 11,000 acres). In Texas where the mineral estate is the dominant estate, refusing to issue a surface occupancy permit for exploration and development of the underlying privately owned minerals could prevent a mineral owner from accessing their minerals, again resulting in the possible inverse condemnation of the privately held mineral estate.

Of the 24,000 Choke Canyon surface acres where the underlying mineral estate is owned either entirely or in part by the United States, approximately 10,400 acres have been leased through BLM oil and gas lease sales occurring prior to 2009, and all of these leases are still active.

#### **Current Mineral Lease Sale:**

Between 2009 and 2014, BLM received Expressions of Interest requesting minerals underlying approximately 11,959 surface acres of Choke Canyon be offered for lease. The requested minerals are owned either entirely or in part by the United States. Of those requests, Reclamation and BLM agreed to offer approximately 1,611 acres (13% of the minerals requested) for lease based on several factors discussed below.

Special stipulations which prohibit surface access or occupancy on Federal land are attached to each of the Choke Canyon mineral tracts included in the upcoming lease sale (copy enclosed). This means that no drilling rigs or other vehicles or equipment associated with oil and gas

production from these lease tracts will be allowed within the Choke Canyon federal property boundary, including within the reservoir area regardless of the water level. Based on the City's protest letter, it appears the intent of this prohibition may not have been fully understood because the City expressed concern that when reservoir levels are low, there may be a possibility for oil and gas drilling to occur in the lake bed which is not the case.

The special stipulations also prohibit horizontal drilling beneath the reservoir as defined by the maximum water surface elevation of 233 feet msl unless otherwise approved by Reclamation. A lease holder may submit a request to waive the prohibition against horizontal drilling beneath the reservoir if they are willing to provide Reclamation advance funding to complete a rigorous risk analysis for their proposed well(s) to ensure the well(s) do not pose a risk to Choke Canyon Dam and Reservoir. Such a "waiver request" may only be approved at the Regional Director level. To clarify, the waiver only allows for the horizontal portion of the well to pass beneath the reservoir within the target geologic formation, which is approximately 12,000 feet (2.3 miles) below the ground surface in the case of the Eagle Ford Shale at Choke Canyon. The waiver does not allow the drilling rig or any other vehicles or equipment to operate within the Choke Canyon federal property boundary, including within the reservoir lake bed, regardless of the water level.

Reclamation, in coordination with a specialized geotechnical engineering contractor, has analyzed and reviewed past waiver requests to drill horizontally under the reservoir on mineral leases acquired by oil and gas companies in earlier lease sales. The Reclamation risk analysis team considered two scenarios: one which considered drilling and production from a single oil and gas well beneath the reservoir; and a second which considered full well field development based on existing Texas Railroad Commission well spacing rules. Among other factors, the risk team evaluated the potential for differential settlement at the dam due to oil and gas extraction, and the risk of induced seismicity from hydraulic fracturing. In both cases, the team concluded there would be no significant increase in dam safety risks. A copy of the Decision Document and Technical Report of Findings for the risk analysis was transmitted to Mr. Gustavo Gonzalez at the City of Corpus Christi on August 9, 2011.

Approximately half of the 1,611 acres of Choke Canyon minerals currently offered for lease consist of partially-owned mineral tracts, wherein the United States owns a portion of the mineral interest and private parties own a portion of the mineral interest. As discussed above, withholding partially-owned mineral tracts from leasing would prevent the private parties holding mineral interests in those same tracts from leasing their minerals, which could constitute a costly inverse condemnation of privately held minerals.

The balance of the 1,611 acres currently offered in the lease sale consists of mineral tracts owned entirely by the United States. Because the stipulations prohibit surface access or occupancy, all well surface locations will be on private land. To drill into the partially owned mineral tracts from off-site privately owned surface locations, many of the wells will have to pass horizontally through mineral tracts which are fully owned by the United States. Therefore, several small "100% Federal" mineral tracts which lie between the partial mineral tracts and the Choke Canyon federal property boundary were also included in the lease sale. In other words, by including these

"100% Federal" mineral tracts in the lease sale, Reclamation avoids issuing surface use permits for exploration and production of privately owned minerals situated inside the boundaries of Choke Canyon because we are facilitating subsurface access to those minerals from off-site locations.

**Future Actions:**

Reclamation deferred its decision regarding leasing of 9,628 mineral acres (81% of the requested acreage) until such time that BLM completes an updated Resource Management Plan for Texas. All of this deferred mineral acreage is owned entirely by the United States, and the acreage is situated such that it does not block access to previously leased federal minerals or privately owned mineral tracts; therefore, withholding this mineral acreage from leasing does not create a risk of inverse condemnation of privately owned minerals.

In addition, BLM deferred leasing of 720 mineral acres which were authorized for lease by Reclamation due to unresolved title conflicts. Most of this acreage is comprised of "partially owned" minerals, and once the title conflicts are resolved, this acreage will likely be included in a future lease sale to avoid potential inverse condemnation claims.

Reclamation contracted with CH2M-Hill to assist with developing Best Management Practices for Hydrocarbon Exploration, Development, and Production at Choke Canyon (BMPs). In light of current hydrocarbon production technology (that is, horizontal drilling), both private and federal minerals can generally be accessed from privately owned land outside the Choke Canyon property boundary. Therefore, Reclamation does not intend to issue any surface use permits for hydrocarbon activities within the boundaries of Choke Canyon except in situations when development of privately owned minerals cannot practically or legally be accomplished from outside the Choke Canyon federal boundary and withholding a surface use permit could lead to an inverse condemnation of the private minerals. In those situations, the BMPs will provide a set of consistent guidelines and practices that may be included as requirements in a surface use permit. The BMPs will help balance private mineral owners' legal right to access their minerals with our need to protect the authorized purposes of Choke Canyon, i.e., water supply, fish & wildlife management, and recreation. Representatives from the City and from Texas Parks and Wildlife Department (TPWD) participated in the BMP development process.

The BMPs are less relevant in situations where the United States owns some portion of the mineral interest because the "no surface occupancy" stipulation attached to the BLM lease offering provides a high level of protection to Choke Canyon resources by confining exploration and production activities to private property outside the Choke Canyon federal property boundary.

**Summary:**

The issues surrounding mineral leasing and oil and gas production at Choke Canyon are complex. Reclamation has included the City and TPWD in the process, but could have provided more opportunities for engagement. To that end, Reclamation would be pleased to meet with you, or designated staff, in Corpus Christi to discuss these complicated issues in more detail. In addition,



Reclamation will ensure the City is informed and has an opportunity to provide input prior to making any future decisions regarding leasing of Choke Canyon minerals.

Please contact Mr. James Allard, Deputy Area Manager, if you have any questions or need additional information regarding Choke Canyon mineral leasing and oil and gas activities, or if you would like to set up a meeting to discuss this or any other issues related to Choke Canyon. Mr. Allard can be reached by phone at (405) 470-4810 or by email to [jallard@usbr.gov](mailto:jallard@usbr.gov).

Sincerely,



Mark A. Treviño  
Area Manager

Enclosure

cc: Sheila Maloney  
Deputy State Director for Minerals  
Bureau of Land Management  
P.O. Box 27115  
Santa Fe, NM 87502

Mr. Clarence Wittwer  
Water Director  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, TX 78469

Mr. Daniel McGinn  
Assistant Director of Environmental  
and Strategic Initiatives  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, TX 78469

Mr. Stephen Emerson  
Reservoir Supervisor  
City of Corpus Christi  
P.O. Box 1043  
Three Rivers, TX 78071

Mr. Stephen Lange  
Area Manager  
Texas Parks and Wildlife Department  
Chaparral Wildlife Management Area  
64 Chaparral WMA Drive  
Cotulla, TX 78014

Mr. Rudy Mesa  
Park Manager  
P.O. Box 2  
Calliham, TX 78007  
(w/encl to each)

Bureau of Reclamation  
Oklahoma-Texas Area Office  
Interim Stipulations – Federal Minerals  
Nueces River Project

1. This is a no surface access or surface occupancy lease.
2. Drilling beneath Choke Canyon Reservoir as defined by the published maximum water surface elevation of 233 feet msl is prohibited unless otherwise approved by the Reclamation Great Plains Regional Director. Such approval will be contingent upon completion of a risk analysis by the Bureau of Reclamation or its designee which demonstrates that the proposed drilling and production will not result in any significant increase in risk to Choke Canyon Dam or Reservoir. This risk analysis shall be funded by the Lessee.
3. All oil and gas drilling and production operations shall be under the supervision of the District Manager, Bureau of Land Management (BLM), in accordance with 43 Code of Federal Regulations 3160.
4. The Secretary of the Interior or designee reserves the right to require cessation of operations if a national emergency arises or if the Bureau of Reclamation needs the leased property for Project purposes incompatible with lease operations. On approval from higher authority, the Area Manager, Bureau of Reclamation, will give notice of the required suspension. The lessee agrees to this condition and waives compensation for its exercise.
5. If the Reclamation Area Manager or his authorized representative discovers an imminent danger to safety or security which allows no time to consult the BLM, that person may order any or all oil and gas drilling and production operations stopped immediately. The BLM District Manager will be notified immediately, will review the order, and will determine the need for further remedial action.
6. Lessee liability for damage to improvements shall include improvements of the Department of the Interior. Lessee shall be liable for pollution and other damages, as a result of their operations, to Government-owned land and property and to the property of the Government's authorized surface users.
7. Before beginning to drill, the lessee must consult with third parties authorized to use real estate in the lease area and must consider programs for which third parties have contractual responsibility.
8. A license to conduct geophysical testing on the leased area must be obtained separately from the Reclamation Area Manager.
9. All rights under this lease are subordinate to the rights of the United States to flood and submerge the lands, permanently or intermittently, in connection with the operation and maintenance of the above-named Project.
10. The United States shall not be responsible for damages to property or injuries to persons which may arise from or be incident to the lessee's oil and gas drilling and production operations, or for damages to the property of the lessee, or for injuries to the person of the lessee's officers, agents, servants, or employees, or others who may be affected by the lessee's oil and gas drilling and



Rev. 04/16/2014

production operations, and the lessee shall hold the United States harmless from any and all such claims.

11. The lessee's oil and gas drilling and production operations shall be of such a nature as not to cause pollution of the soils and the waters of the Project.
12. The United States reserves the right to use the land jointly with the lessee in connection with the construction, operation, and maintenance of the Federal Project and to place improvements thereon or to remove materials therefrom, including sand and gravel and other construction material, as may be necessary in connection with such work, and the lessee shall not interfere in any manner with such work or do any act which may increase the cost of performing such work.
13. All areas within 2,000 feet of any major structure, including but not limited to the dam, spillway, or embankment, are restricted areas. The lessee, his operators, agents, or employees shall not utilize the surface or subsurface of restricted areas for any purpose. Drilling operations in, on, or under the restricted areas, including drilling outside of the restricted areas which would cause a bore hole to be under the restricted area, will not be permitted. The restricted areas are included in the lease for the sole purpose of becoming part of a drilling unit so that the United States will share in the royalty of the unit.
14. All storage tanks and slush pits will be protected by dikes of sufficient capacity to protect the reservoir from pollution to maximum water surface elevation 233.00 feet, for Choke Canyon Reservoir, National Geodetic Vertical Datum.
15. It is the responsibility of the lessee to identify and be aware of areas where entry is prohibited.
16. The operator will immediately stop work and advise the Reclamation Area Manager or his authorized representative if contamination is found in the operating area.

**BUREAU OF LAND MANAGEMENT  
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**01 12-22-1987;101STAT1330;30USC181 ET SEQ**  
**Case Type 312022: O&G LSE COMP ACQ-1987**  
**Commodity 459: OIL & GAS**  
**Case Disposition: AUTHORIZED Case File Juris:**

**Total Acres**  
**1,069.350**

**Serial Number**  
**TXNM-- - 119324**

**Serial Number: TXNM-- - 119324**

Name & Address			Int Rel	%Interest
R & R ROYALTY LTD	500 N SHORELINE BLVD STE 322	CORPUS CHRISTI TX 78401	OPERATING RIGHTS	0.000000000
SEA EAGLE FORD LLC	633 17TH ST STE 1950	DENVER CO 802023620	LESSEE	100.000000000

Mer Twp	Rng	Sec	SType	Nr SUFF	Subdivision	District/Resource Area	County	Mgmt Agency
TX 297			TRAC		9-133-133-2;	OKLAHOMA FIELD OFFICE	LIVE OAK	BUREAU OF RECLAMATION

**Serial Number: TXNM-- - 119324**

Act Date	Code	Action	Action Remarks	Pending Office
08/30/2007	387	CASE ESTABLISHED	20071006\$;	
10/17/2007	143	BONUS BID PAYMENT RECD	\$2164.00;	
10/17/2007	191	SALE HELD		
10/17/2007	247	BID RECEIVED	\$43280.00;	
10/30/2007	143	BONUS BID PAYMENT RECD	\$41116.00;	
11/30/2007	974	AUTOMATED RECORD VERIF	BCO	
12/01/2007	496	FUND CODE	73;145000.24	
12/01/2007	500	GEOGRAPHIC NAME	NUECES RIVER;	
12/01/2007	527	ACRES-FED INT UNDER 100%	162.46-25%;	
12/01/2007	530	RLTY RATE - 12 1/2%		
12/01/2007	868	EFFECTIVE DATE		
02/14/2014	899	TRF OF ORR FILED	1	
02/14/2014	899	TRF OF ORR FILED	2	
05/20/2014	140	ASGN FILED	R&R ROYAL/SEA EAGLE;1	
05/20/2014	932	TRF OPER RGTS FILED	SEA EAGLE/R&R ROYAL;1	
07/15/2014	139	ASGN APPROVED	EFF 06/01/14;	
07/15/2014	933	TRF OPER RGTS APPROVED	EFF 06/01/14;	
07/15/2014	974	AUTOMATED RECORD VERIF	JA	
04/01/2015	246	LEASE COMMITTED TO CA	TXNM135320	
06/19/2015	393	DEC ISSUED	LSE AMENDED;	
02/20/2017	651	HELD BY PROD - ALLOCATED		
02/20/2017	660	MEMO OF 1ST PROD-ALLOC	/1/TXNM135320;	
04/06/2017	643	PRODUCTION DETERMINATION	/1/	

Line Nr	Remarks
0002	STIPULATIONS ATTACHED TO LEASE:
0003	BOR-GP-135
0004	ORA-2 WETLAND/RIPARAIN (CSU)
0005	WO-ESA-7 ENDANGERED SPECIES ACT
0006	QUAD NO. 2898134
0007	07/15/2014 - RENTAL PAID 12/01/2013 - 11/30/2014

**Serial Number: TXNM-- - 119324**

NO WARRANTY IS MADE BY BLM  
FOR USE OF THE DATA FOR  
PURPOSES NOT INTENDED BY BLM

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0008	06/19/2015 LEASE AMENDED TO REFLECT
0009	TRACT NR-9-1 CONTAINS 162.46 ACRES
0010	DEED CONVEYED TO STATE OF TX 12.56 ACRES FOR HWY;
0011	MINERAL INTEREST WAS AMENDED TO 25% TR NR 9-1;

**BUREAU OF LAND MANAGEMENT  
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**01 12-22-1987;101STAT1330;30USC181 ET SEQ**  
**Case Type 312022: O&G LSE COMP ACQ-1987**  
**Commodity 459: OIL & GAS**  
**Case Disposition: AUTHORIZED Case File Juris:**

**Total Acres 316.450**  
**Serial Number TXNM-- - 119826**

**Serial Number: TXNM-- - 119826**

Name & Address			Int Rel	%Interest
R & R ROYALTY LTD	500 N SHORELINE BLVD STE 322	CORPUS CHRISTI TX 78401	OPERATING RIGHTS	0.000000000
SEA EAGLE FORD LLC	633 17TH ST STE 1950	DENVER CO 802023620	LESSEE	100.000000000

MerTwp Rng Sec			SType	Nr Suff	Subdivision	District/Resource Area	County	Mgmt Agency
TX 297			TRAC		NR-9-2,NR-39-1,NR-47-4;	OKLAHOMA FIELD OFFICE	LIVE OAK	BUREAU OF RECLAMATION
TX 311			TRAC		NR-9-2,NR-39-1,NR-47-4;	OKLAHOMA FIELD OFFICE	MCMULLEN	BUREAU OF RECLAMATION

**Serial Number: TXNM-- - 119826**

Act Date	Code	Action	Action Remarks	Pending Office
11/29/2007	387	CASE ESTABLISHED	20080140;	
01/16/2008	143	BONUS BID PAYMENT RECD	\$634.00;	
01/16/2008	191	SALE HELD		
01/16/2008	267	BID RECEIVED	\$15850.00;	
01/29/2008	143	BONUS BID PAYMENT RECD	\$15216.00;	
02/29/2008	237	LEASE ISSUED		
02/29/2008	974	AUTOMATED RECORD VERIF	BTM	
03/01/2008	496	FUND CODE	73;145000.24	
03/01/2008	500	GEOGRAPHIC NAME	NUECES RIVER;	
03/01/2008	523	ACRES - COUNTY	306.97;TX297	
03/01/2008	523	ACRES - COUNTY	9.48;TX311	
03/01/2008	530	RLTY RATE - 12 1/2%		
03/01/2008	868	EFFECTIVE DATE		
02/14/2014	899	TRF OF ORR FILED	1	
02/14/2014	899	TRF OF ORR FILED	2	
05/20/2014	140	ASGN FILED	R&R ROYAL/SEA EAGLE;1	
05/20/2014	932	TRF OPER RGTS FILED	SEA EAGLE/R&R ROYAL;1	
07/15/2014	139	ASGN APPROVED	EFF 06/01/14;	
07/15/2014	933	TRF OPER RGTS APPROVED	EFF 06/01/14;	
07/15/2014	974	AUTOMATED RECORD VERIF	JA	
04/01/2015	246	LEASE COMMITTED TO CA	TXNM135320	
02/20/2017	651	HELD BY PROD - ALLOCATED		
02/20/2017	660	MEMO OF 1ST PROD-ALLOC	/1/TXNM135320;	
04/06/2017	643	PRODUCTION DETERMINATION	/1/	

Line Nr	Remarks	Serial Number: TXNM-- - 119826
0002	STIPULATION ATTACHED TO LEASE:	
0003	BOR-GP-135	
0004	QUAD NO. 2898134	
0005	NOTE: THIS PARCEL MAY HAVE A NON-PARTICIPATING	
0006	ROYALTY INTEREST (NPRI) RESERVED. THIS IS A	

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PURPOSES NOT INTENDED BY BLM

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0007 SEPARATE ROYALTY PAYMENT, IN ADDITION, TO THE  
0008 ROYALTY PAID TO THE UNITED STATES UNDER THE  
0009 TERMS OF ANY BLM LEASE ISSUED, AND IS PAID BY  
0010 THE LESSEE DIRECTLY TO THE NPRI OWNER.  
0011 07/15/2014 - RENTAL PAID 03/01/2014 - 02/28/2015