



Regulatory Onslaught Continues as BLM Considers Canceling Existing Oil and Gas Leases

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On November 20, 2015, the Bureau of Land Management (BLM) published a [Notice of Availability](#) for a Draft Environmental Impact Statement (EIS) concerning previously issued oil and gas leases in the White River National Forest (WRNF). Specifically, the [Draft EIS](#) seeks to analyze whether to reaffirm, modify, or cancel 65 leases issued in the WRNF between 1995 and 2012. The BLM decision was prompted by a 2007 Interior Board of Land Appeals (IBLA) decision which found that the BLM failed to comply with the National Environmental Policy Act (NEPA) when issuing the leases.

BLM issued the leases in question without conducting any independent analysis of potential environmental impacts resulting from development on the lands, instead relying on the analysis performed by the Forest Service in a 1993 EIS and 2001 EIS. The IBLA found that BLM could have formally adopted the Forest Service's environmental analyses, but never did so.

Rather than formally adopting the Forest Service's analyses after the IBLA decision, BLM declared that it would perform its own analysis through this proposed EIS because the Forest Service analyses are "no longer adequate." BLM's declaration that new analysis is necessary is based on a new WRNF Oil and Gas Leasing Final EIS prepared by the Forest Service in 2014, which includes new stipulations on surface occupancy and uses and timing limitations. The BLM's Draft EIS proposed five alternatives: (1) reaffirm all 65 leases; (2) reaffirm 57 leases and address inconsistencies on 8 leases; (3) modify leases to match stipulations in the 2014 WRNF Final EIS; (4) modify or cancel leases to match stipulations in 2014 WRNF Final EIS; or (5) cancel all leases and plug and abandon all existing wells. BLM has listed the fourth option as its proposed action, seeking to cancel all or part of 25 leases.

BLM's proposed action is a draconian and unnecessary measure that highlights the Obama Administration's continuing regulatory overreach. BLM admitted that the Forest Service's decision on future leasing in the 2014 Draft Record of Decision does not apply to these previously issued leases. However, BLM proposes canceling some of the existing leases to be consistent with the Forest Service's proposed future management objectives.

Importantly, BLM stated that the changes in lease stipulations will not apply to locations which already have producing wells. However, BLM does plan to pursue the plugging and abandonment of wells and removal of facilities on developed leases within areas proposed to be closed to leasing.

BLM's inclination to take drastic steps, including modification or cancelation of existing leases based on proposed future management plans, is an unlawful taking of valid existing rights. Moreover, BLM's decision signals the continued trend of unilateral agency interference with basic contract rights. Continued willingness to destroy existing lease rights violates federal statutes and will continue to discourage future development on federal land.

For more information on the BLM's Draft EIS, please contact [Michael Cross](#) or [Bret Sumner](#).