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Instruction Memorandum No. 2004- 110 Change 1
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To: All WO and FO Officials

From: Director

Subject: Fluid Mineral Leasing and Related Planning and National Environmental Policy Act (NEPA) Processes and Best Management Practices

Program Areas: Fluid Minerals and Related Planning.

Purpose: This Instruction Memorandum (IM) provides additional clarification of guidance provided in WO IM 2004-110 entitled "*Fluid Mineral Leasing and Related Planning and National Environmental Policy Act (NEPA) Processes,*" issued February 23, 2004, in regard to existing land use allocation decisions and the processing of oil, gas and geothermal leasing decisions. That IM provides direction on what constitutes appropriate deferral of leasing decisions in regard to the Bureau's ongoing land use planning process and further application of Best Management Practices (BMPs).

Background: Previously, some of the State Offices (SOs) and Field Offices (FOs) had identified the need for policy direction in regard to implementing existing land use plan decisions, especially while preparing land use plan amendments or revisions. The Washington Office (WO) issued IM 2004-110 to address those concerns. That IM also included a June 7, 2002 Memorandum from the Office of the Solicitor providing legal analysis and background for implementation actions during the land use planning process.

The State Directors have discretion to temporarily defer leasing on specific tracts of land based on information under review during planning (see WO IM 2004-110). This IM provides additional guidance when the Bureau has developed alternatives and has released a draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) for public review. This IM also re-emphasizes the importance of considering temporary deferral of oil, gas and geothermal leasing in those areas with active land use planning activities.

In addition, the WO issued IM 2004-194 entitled “*Integration of Best Management Practices into Application for Permit to Drill Approvals and Associated Rights-of-Way*,” on June 6, 2004, establishing the Bureau’s policy on the use of BMPs for onshore oil, gas and geothermal operations. Using BMPs either as stipulations or conditions of approval can significantly mitigate impacts from oil, gas or geothermal development when they are appropriately applied to new or existing leases consistent with lease rights granted.

Policy/Action: All SOs are to consider temporarily deferring oil, gas and geothermal leasing on federal lands with land use plans that are currently being revised or amended. A decision temporarily to defer could include lands that are designated in the preferred alternative of draft or final RMP revisions or amendments as: 1) lands closed to leasing; 2) lands open to leasing under no surface occupancy; 3) lands open to leasing under seasonal or other constraints with an emphasis on wildlife concerns; or 4) other potentially restricted lands. Deferral, therefore, would not apply to areas designated in the alternative as open to leasing under the terms and conditions of the standard lease form.

In addition, the appropriate offices shall also evaluate the application of BMPs (see WO IM 2004-194). Often, BMPs, applied either as stipulations or conditions of approval, are more effective in mitigating impacts to wildlife resources than stipulations such as timing limitations or seasonal closures.

For existing leases, BMPs can usually be applied as conditions of approval at the permitting stage to accomplish the management goals of newly revised or amended RMPs. Section 6 of the standard federal oil and gas lease (Form 3100-11) provides the Bureau with authority to require reasonable measures to minimize adverse impacts to land, air, and water, to cultural, biological, visual, and other resources and to other uses or users. These measures may include, but are not limited to siting, design, timing, and reclamation of oil and gas facilities. Therefore, for new surface disturbing activities, FOs are directed to evaluate during the NEPA process the application of BMPs to provide the necessary level of protection for critical resources on existing leases consistent with lease rights granted.

This policy is intended to provide flexibility and to re-emphasize the discretionary authority of the State Director to temporarily defer leasing of specific tracts of land when there are legitimate BLM-recognized resource concerns. It does not provide for an area-wide moratorium on all leasing of oil, gas or geothermal resources during the planning process; such a policy would be inconsistent with Bureau planning requirements and not required by law.

Timeframes: This IM is effective on the date of issuance.

Budget Impacts: None.

Statement of Adverse Energy Impact: This policy may delay, but will not, in and of itself, reduce the production of energy. Any permanent effects would be the result of the decisions made in land use planning.

Manual and Handbook Sections Affected: None.

Coordination: Preparation of this IM was coordinated with WO-210, WO-310, WO-300 and the Department of the Interior's Office of the Solicitor.

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