

# H-3101-1 - ISSUANCE OF LEASES

## H-3101-1 - ISSUANCE OF LEASES

1. Explanation of Material Transmitted: This release transmits a revised Handbook 3101-1 with guidance and procedures to implement the regulations in Title 43 Code of Federal Regulations Subpart 3101 concerning the issuance of Federal oil and gas leases, including criteria for acreage limitations, and procedures for leasing acquired, withdrawn, reserved, and segregated lands. Guidance and procedures for processing lease modifications and private leases are addressed. The Handbook Section also addresses coordination with other surface management agencies and private surface owners.

2. Reports Required: None

3. Materials Superseded: The Handbook pages superseded are listed under "REMOVE" below. All directives applicable under the Subject Function Code 3101 that have been issued since the 1988 revisions to the regulations in Title 43 Code of Federal Regulations Subpart 3101 have been incorporated appropriately into this Handbook.

4. Filing Instructions: File as directed below.

REMOVE: INSERT:

All of H-3101-1 (Rel. 3-127, 11/26/85) H-3101-1

(Total: 26 Sheets) (Total: 48 Sheets)

Assistant Director

Resource Use and Protection

TC-1

## H-3101-1 - ISSUANCE OF LEASES

### Table of Contents

#### Page

<a href="#">Introduction</a> .....	i
<a href="#">I. Adjudication-Related Procedures and Requirements</a> .....	1
<a href="#">A. Availability of Lands for Oil and Gas Leasing</a> .....	1
<a href="#">1. Lands Eligible and Available for Leasing</a> .....	1
<a href="#">2. Lands Not Available for Leasing</a> .....	1
<a href="#">3. Effects of Injunction Orders/Litigation</a> .....	3
<a href="#">B. Lands Withdrawn and Segregated Public Domain Lands</a> .....	4
<a href="#">1. Lands Withdrawn and Set Aside for Specific Purposes</a> .....	4

<a href="#">2. Lands Withdrawn for Use by Another Agency</a>	4
<a href="#">3. Withdrawals Not Closed to Leasing</a>	4
<a href="#">C. Recreation and Public Purposes Lands</a>	5
<a href="#">D. Other Patented Lands with Mineral Estates Reserved by Statutes</a>	6
<a href="#">E. Federally-Owned Minerals Underlying Surface Owned by a State or Charitable Organization</a>	7
<a href="#">F. Lands Covered by Application to Close Lands to Mineral Leasing and Lands Within a Proposed Withdrawal or Exchange</a>	9
<a href="#">1. Lands Covered by Application to Close Lands to Mineral Leasing</a>	9
<a href="#">2. Lands Within a Proposed Federal Withdrawal</a>	9
<a href="#">3. Lands Proposed for Exchange</a>	9
<a href="#">4. Exchanged Lands With Federal Leases</a>	9
<a href="#">5. Transfer of Administrative Jurisdiction From BLM to Another Federal Agency</a>	10
<a href="#">G. Issuance of Leases</a>	11
<a href="#">1. Lease Form</a>	11
<a href="#">H. Acreage Limitations</a>	12
<a href="#">1. Requirements</a>	12
<a href="#">2. Excess Acreage</a>	14
<a href="#">I. Joinder Evidence for Leases Issued for Lands Within Units and Communitization Agreements</a>	15
<a href="#">J. Lease Modification</a>	16
<a href="#">K. Private Oil and Gas Leases</a>	19
<a href="#">II. Lease Terms and Conditions</a>	23
<a href="#">A. General</a>	23
<a href="#">B. Lease Stipulations</a>	23

[C. Lease Case File Documentation for Stipulations](#)..... 24

[D. Information Notices](#)..... 24

[III. Coordination with Other Surface Management Agencies and Private](#)

[Surface Owners](#)..... 25

[A. Split Estate Lands](#)..... 25

TC-2

**H-3101-1 - ISSUANCE OF LEASES**

Table of Contents

Page

[B. Coordination with Other Surface Management Agencies](#)..... 26

[1. Lands Administered by the Forest Service](#)..... 26

[2. Lands Administered by the Bureau of Reclamation](#)..... 27

[3. Lands Administered by the National Park Service](#)..... 27

[4. Lands Administered by the Fish and Wildlife Service](#)..... 28

[5. Lands Administered by the Department of Defense](#)..... 28

[6. Supplemental Agreements Between SMA's and BLM State Offices](#)... 30

Glossary of Terms (See Handbook 3100-1)

Illustrations

1. Offer to Lease and Lease for Oil and Gas (Form 3100-11)

[2. Format for Decision Requiring Reduction of Excess Acreage Due to](#)

[Termination of Cooperative Plan or Agreement or Development Contract](#)

[3. Format for Decision Requiring Reduction of Excess Acreage Due to](#)

[Merger or Purchase of Corporation](#)

[4. Format for Decision of Lease Modification Due to Survey/Resurvey](#)

[5. Format for Accounting Advice Showing Lease Modification of Acreage Due to](#)

[Survey/Resurvey](#)

6. Examples of Transmittal Letters from Acquiring Agency Regarding a

Private Oil and Gas Lease, with Enclosures

[7. Format of Certified Notice to Private Lessee of Acquisition of Lands by](#)

[United States with Administration of Oil and Gas Lease by the BLM](#)

8. Format of Accounting Advice Establishing Account of Private Lease with

the MMS-DMD

9. Example of ALMRS Serial Register Page for Private Lease

Appendices

1. Solicitor's Memorandum on Federal Jurisdiction Over Acquired Private

Leases

[2. Reference List of IBLA Decisions Concerning Lease Stipulations](#)

3. Interagency Agreements Between the Forest Service and BLM for Oil and Gas

Leasing and Oil and Gas Operations

4. Interagency Agreement Between the Bureau of Reclamation and BLM (Portion

Addressing Mineral and Geothermal Leases)

[5. Department of the Army Standardized Mineral Leasing Stipulations](#)

[Index by Keywords](#)

i

## **H-3101-1 - ISSUANCE OF LEASES**

### Introduction

This Handbook is divided into three sections. The first section covers adjudication-related procedures concerning availability of lands for oil and gas leasing, lease issuance, requirements regarding acreage limitations, joinder evidence for leases within cooperative or unit agreements, Federal assumption of private oil and gas leases, lease modifications, and other lease adjudicative actions required when oil and gas lease applications occur on Federal mineral estate covered by other land actions. The second section of this Handbook addresses lease terms and conditions, including lease stipulations and information notices. The third section of this Handbook provides guidance for leasing split estate lands and lands under the jurisdiction of other surface management agencies (SMA's) and includes discussion of national interagency agreements (IA's) and memoranda of understanding (MOU's). The BLM State Office-specific IA's and MOU's are to be included in State Office Manual Supplements that are a supplement this BLM Handbook.

1

## **H-3101-1 - ISSUANCE OF LEASES**

## I. Adjudication-Related Procedures and Requirements Keywords

### A. Availability of Lands for Oil and Gas Leasing

#### 1. Lands Eligible and Available for Leasing. LANDS ELIGIBLE

Lands eligible for leasing include those identified in AND AVAILABLE 43 CFR 3100.0-3 as being subject to leasing, i.e., lands FOR LEASING considered not to be excluded from leasing by a statutory or regulatory prohibition. Eligible lands are available for leasing when all statutory requirements and reviews, including compliance with the National Environmental Policy Act (NEPA) of 1970, have been met. The BLM objective is to place reliance on land-use planning and associated NEPA analyses, conducted in accordance with the supplemental program guidance for energy and mineral resources (see Manual Section 1624.2 and Handbook 1624-1), to support oil and gas leasing decisions.

#### 2. Lands Not Available for Leasing. Certain LANDS NOT

lands are not available for oil and gas leasing by AVAILABLE statutory, regulatory, and policy prohibition. These FOR LEASING include the following (see also 43 CFR 3100.0-3(a) and (b)).

##### a. Incorporated Cities, Towns, and Villages. INCORPORATED

Lands within incorporated cities, towns, and villages are AREAS not subject to leasing under the mineral leasing laws, except certain acquired lands within the cities of Corpus Christi, Texas, and Port Hueneme, California. In accordance with Public Law 98-529, enacted October 19, 1984, acquired lands within these two cities are available for oil and gas leasing with the consent of the city.

b. Units of the National Park System. It NATIONAL PARK is the policy of the Department of the Interior that unless SYSTEM UNITS Congress has specifically declared a unit of the National Park System to be open to leasing (e.g., see 43 CFR 3109.2) or unless drainage of oil or gas is occurring, leasing shall not be considered. See Section III, below, for a discussion of the MOU between BLM and the National Park Service.

c. Indian Reservations. Lands within INDIAN Indian Reservations and lands under the jurisdiction of the LANDS Bureau of Indian Affairs shall be leased only in accordance with the regulations contained in 25 CFR Part 200.

2

## **H-3101-1 - ISSUANCE OF LEASES**

### Keywords

d. Naval Petroleum and Oil Shale Reserves NAVAL PETROLEUM/ and the National Petroleum Reserve in Alaska. The Naval OIL SHALE Petroleum Reserves and Oil Shale Reserves are under the RESERVES jurisdiction of the Department of Energy.

e. National Petroleum Reserve in Alaska. NATIONAL The National Petroleum Reserve in Alaska (NPR-A), under PETROLEUM the jurisdiction of the BLM, shall be leased for oil and RESERVE IN gas only in accordance with the regulations in 43 CFR ALASKA Part 3130, not under the Mineral Leasing Act of 1920.

f. Arctic National Wildlife Refuge. The ARCTIC NATIONAL Arctic National Wildlife Refuge shall not be available for WILDLIFE REFUGE oil and gas leasing until legislation authorizing leasing is enacted.

g. Central Arctic Area. In accordance CENTRAL ARCTIC with the provisions of the Alaska National Interest Lands AREA - ANILCA Conservation Act (ANILCA), Section 1001, lands under the SECTION 1001 jurisdiction of the BLM located north of 68 degrees North AREA Latitude and east of the western boundary of the NPR-A are not available for oil and gas leasing until further legislation is enacted authorizing leasing.

h. Designated Wilderness Areas. Lands WILDERNESS within the National Wilderness Preservation System, subject AREAS to valid existing rights under Section 4(d)(3) of the Wilderness Act established before midnight December 31, 1983, are not available for oil and gas leasing unless otherwise provided by law.

i. Wilderness Study Areas. The Federal WILDERNESS Onshore Oil and Gas Leasing Reform Act (Reform Act) STUDY AREAS prohibited leasing in: (1) lands recommended for wilderness allocation by the surface management agency; (2) lands within BLM wilderness study areas; (3) lands designated by Congress as wilderness study areas, except where oil and gas leasing is specifically allowed to continue by the statute designating the study area (e.g., certain areas within Utah); and (4) lands within areas allocated for wilderness or further planning in Executive Communication 1504, 96th Congress, unless such lands are allocated to uses other than wilderness by a land-use plan/resource management plan or have been released to uses other than wilderness by an Act of Congress. Lease offers

filed prior to enactment of the Reform Act that are in such wilderness study areas are not to be rejected, but are to be held without further action pending Congressional action on the wilderness study area.

3

### **H-3101-1 - ISSUANCE OF LEASES**

#### Keywords

#### j. National Wildlife Refuge System Lands. NATIONAL

In accordance with Section 107 of the Fiscal Year 1984 WILDLIFE Continuing Appropriations Act, no further leasing of REFUGES National Wildlife Refuge lands, including coordination lands, within the lower 48 States shall be allowed until regulations are developed and an environmental impact statement is completed. (See Manual Section 3101.5.)

#### k. Wild and Scenic Rivers. The Wild and WILD AND SCENIC

Scenic Rivers Act withdraws areas designated as National RIVERS Wild and Scenic Rivers from mineral leasing. Even though Section 9(a) of the Act states that those segments classified as "scenic" or "recreation" are open to entry under the mining and mineral leasing laws subject to the rules and regulations of the Secretary, no regulations have been promulgated to allow leasing in such areas.

#### 3. Effects of Injunction Orders/Litigation. EFFECTS OF

Lands which are the subject of injunction orders or court INJUNCTION decisions affecting leasing which are under appeal cannot ORDERS/COURT be leased until final decisions are rendered by the court, DECISIONS unless other specific direction is provided by the court.



Potential lessees (competitive bidders or noncompetitive lease offerors) are to be notified that the oil and gas parcels will be held in suspension until resolution of the litigation. When existing leases are placed in a suspension, see Handbook 3103-1 for lease suspension procedures.

4

## **H-3101-1 - ISSUANCE OF LEASES**

### **B. Lands Withdrawn and Segregated Public Domain Lands Keywords**

#### **1. Lands Withdrawn and Set Aside for Specific LANDS WITHDRAWN**

##### **Purposes. Lands withdrawn and set aside for AND SET ASIDE**

specific purposes may be leased, except where lands are FOR SPECIFIC

excluded from mineral leasing under the mineral leasing PURPOSES

laws or where the Executive Order or Public Land Order

expressly excludes the lands from operation of the mineral

leasing laws. If the withdrawal precludes oil and gas

leasing, any noncompetitive offers received must be

rejected.

#### **2. Lands Withdrawn for Use by Another Agency. LANDS WITHDRAWN**

Where lands are withdrawn for the use of another agency, FOR USE BY

that agency must be asked for its recommendations as to ANOTHER AGENCY

leasing, including stipulations needed to protect the land

for the purposes for which it was withdrawn. However, for

lands withdrawn for use by the Department of Defense (DOD),

the BLM must obtain consent for leasing in accordance with

the Engle Act (43 U.S.C. 158). If the DOD does not concur

with leasing, it needs to provide the rationale for such a

determination. (See Section III.B.5, below, for further

procedures concerning DOD lands.)

### 3. Withdrawals Not Closed to Leasing. Some WITHDRAWALS

withdrawals which are not closed to oil and gas leasing NOT CLOSED

are: TO LEASING

a. Withdrawals for grazing districts.

b. Power site withdrawals.

c. Reclamation withdrawals.

d. National Forest withdrawals.

e. Public Water withdrawals.

f. Oil Shale withdrawals. See Manual

Section 3101.13D1 for the oil shale stipulation to be used

only for the specific patented oil shale claims area in

Colorado affected by the TOSCO court settlement.

5

## **H-3101-1 - ISSUANCE OF LEASES**

### C. Recreation and Public Purposes Lands Keywords

All lands within recreation and public purposes (RP&P) RECREATION

leases and patents are available for oil and gas leasing AND PUBLIC

subject to conditions and stipulations deemed appropriate PURPOSES LANDS

by the authorized officer. Such lands are to be treated

as split estate lands. Process noncompetitive lease offers

and competitive sale parcels using the procedures set forth

in Handbooks 3110-1 and 3120-1, respectively. If the RP&P

lands being leased were patented to a State or political RP&P LANDS

subdivision, agency, or instrumentality thereof, or to a PATENTED TO A

college or any other educational corporation or STATE OR

association, or to a charitable or religious corporation CHARITABLE  
or association, with a reservation of the oil and gas to ORGANIZATION  
the United States, refer to Section I.E, below.

6

### **H-3101-1 - ISSUANCE OF LEASES**

#### **D. Other Patented Lands With Mineral Estates Keywords**

##### **Reserved by Statutes**

Reserved mineral estates in patented lands are available OTHER PATENTED  
for lease under the applicable leasing regulations (see LANDS WITH  
43 CFR 3000.8). Such mineral estates include, but are not MINERAL ESTATES  
limited to, those that have been reserved under the Act of RESERVED BY  
July 1914 and the Stockraising Homestead Act of 1916, the STATUTE  
Small Tract Act of June 1, 1938, as amended, and the  
Federal Land Policy and Management Act of 1976.

Noncompetitive oil and gas lease offers and competitive  
sale parcels for such lands are to be processed following  
the steps set forth in Handbooks 3110-1 and 3120-1,  
respectively. If access for lease development is denied,  
consult with the Regional or Field Solicitor for the  
appropriate action to be taken.

7

### **H-3101-1 - ISSUANCE OF LEASES**

#### **E. Federally-Owned Minerals Underlying Surface Keywords**

##### **Owned by a State or Charitable Organization**

Under the Recreation and Public Purposes Act, Federal lands FEDERAL MINERALS  
are patented to States, counties, cities, schools, UNDER STATE OR  
churches, charitable organizations, etc. Where the United CHARITABLE

States has conveyed title or control of the surface of ORGANIZATION

lands to such an entity, written notification of a lease SURFACE

offer/competitive lease parcel shall be sent by certified

mail to the entity. The entity will have up to 90 days to

suggest lease stipulations considered necessary to protect

the surface improvements or uses. The facts submitted by

the entity must be considered and each case decided on its

merits. The BLM Field Office fluid minerals operations

staff must review any objections to leasing or stipulations

provided by the entity, and report to the State Office

Adjudication whether to withhold the lands from leasing, or

whether to incorporate the stipulations into a lease or

develop alternative stipulations. The opposition to

leasing or the need for restrictive stipulations expressed

by the party controlling the surface affords no legal basis

or authority for the BLM to refuse to issue a lease or to

issue the lease with the requested restrictive stipulations.

The final determination to issue a lease and with what

stipulations depends on whether the interest of the United

States would best be served by issuance of the lease.

Responsible

Official Step Action Keywords

Adjudication 1. Confirm if the patentee meets the CONFIRM TYPE

criteria set forth in 43 CFR 3101.8. OF PATENT

2. Prepare and send a letter to the REQUEST PATENTEE

patentee requesting its report on the REPORT

leasing request.

3. Review the report received from the REVIEW PATENTEE patentee for concurrence to leasing RESPONSE and any stipulations requested.

4. If concurrence to leasing is received, REQUEST FIELD and additional stipulations are OPERATIONS STAFF requested by the patentee, request the REVIEW Field Office fluid minerals operations staff to review the stipulations submitted by the patentee.

8

### **H-3101-1 - ISSUANCE OF LEASES**

Responsible

#### Official Step Action Keywords

5. If a nonconcurrence to leasing is received, send the patentee's objection to the Field Office fluid minerals operations staff for a determination whether it is appropriate to withhold the lands from leasing.

Field Office 6. Review the patentee's objection to PATENTEE Operations leasing and determine if the lands OBJECTION TO need to be withdrawn from leasing LEASING and/or the RMP needs to be amended to REVIEWED BY address no leasing in the tract. FIELD OFFICE

7. If the patentee indicates stipulations RESTRICTIVE so restrictive that the lands could not STIPULATIONS be developed independently or become OF PATENTEE

part of a drilling unit, consider the REVIEWED BY  
facts supporting the stipulations FIELD OFFICE  
requested and decide whether to apply  
them, or whether to develop alternative  
stipulations.

8. Forward the Field Office's final REPORT TO  
recommendations to the State Office ADJUDICATION  
Adjudication.

Adjudication 9. Process the parcel for competitive PROCESS LEASE  
lease sale with the appropriate ACTION  
stipulations and complete the leasing  
actions in accordance with the  
Handbooks 3120-1 (competitive lease)  
and 3110-1 (noncompetitive offer).

10. If the final recommendation was made REJECT OFFER  
to not lease the lands, reject any  
noncompetitive lease offer that was  
filed.

9

## **H-3101-1 - ISSUANCE OF LEASES**

F. Lands Covered by Application to Close Lands to Keywords

Mineral Leasing and Lands Within a Proposed

Withdrawal or Exchange

1. Lands Covered by Application to Close Lands SUSPEND LEASE

to Mineral Leasing. Suspend action on any ACTIONS ON

noncompetitive offers, sale parcels, and expressions of LANDS PENDING  
interest for lands affected by the pending application to APPLICATION

close the lands to oil and gas leasing. Notify any FOR CLOSURE TO offeror, bidder, or party making the expression of interest MINERAL LEASING of the suspension action taken by the BLM. If the segregative effect to close the lands to mineral leasing becomes final, any oil and gas offers must be rejected.

2. Lands Within a Proposed Federal Withdrawal. SUSPEND LEASE

Suspend action on noncompetitive offers, sale parcels, and ACTIONS ON expressions of interest for lands included in a pending PROPOSED Federal withdrawal area until final action has been taken WITHDRAWAL AREAS on the withdrawal application. Notify any offeror, bidder, or party making the expression of interest of the suspension action taken by the BLM.

3. Lands Proposed for Exchange. For lands that PROCESS LEASE

have been proposed for exchange with another Federal ACTIONS UNTIL agency, State, or private party, process sale parcels, NORA PUBLISHED noncompetitive offers, and expressions of interest on the FOR EXCHANGE involved lands up to the point where a Notice of Realty ACTION Action (NORA) is published in the Federal Register. When the NORA is published, withhold issuance of oil and gas leases because mineral leasing is considered in conflict with the exchange proposal. When the U. S. Forest Service (FS) is pursuing an exchange of certain lands without a formal withdrawal, any oil and gas noncompetitive offers or competitive sale parcels may fail to receive the required FS consent to lease due to the FS efforts to complete the land exchange.

4. Exchanged Lands With Federal Leases. When EXCHANGED LANDS

lands and/or minerals are transferred out of the ownership WITH FEDERAL of the United States through exchange, and a Federal lease LEASES exists on the lands, the patent should provide that the oil and gas rights in any outstanding lease at the time of exchange will not be conveyed until termination, expiration, or relinquishment of the lease. When the lease has ceased to exist, the oil and gas rights will automatically vest with the patentee, its successors, or assignees.

10

### **H-3101-1 - ISSUANCE OF LEASES**

#### Keywords

5. Transfer of Administrative Jurisdiction From TRANSFER OF BLM to Another Federal Agency. Transfer of JURISDICTION lands from the BLM to another Federal agency may be FROM BLM TO authorized by law, e.g., from the BLM to the Bureau of ANOTHER FEDERAL Indian Affairs in trust for an Indian tribe. When the BLM AGENCY transfers the jurisdiction of the lands, including the mineral estate, the oil and gas lease also is transferred to the other Federal agency. When another agency becomes the administrator of the oil and gas lease, close the BLM lease case file.

ALMRS ENTRY: Enter Action Date (MANDATORY ACTION CODE): AUTOMATED

Date of transfer of jurisdiction or administration of NOTATION

lease from BLM to another agency; DE 1775 Action Code

169/DE 1920 Action Code 466; Action Remarks: TO .

Also enter DE 1775/2910 Action Code 970 to close case, and

remove DE 1775/2910 Action Code 763 (Expires).



## H-3101-1 - ISSUANCE OF LEASES

### G. Issuance of Leases Keywords

Specific adjudication procedures for processing oil and ISSUANCE gas noncompetitive and competitive leases are provided in OF LEASES Handbooks 3110-1 and 3120-1, respectively. Procedures for processing oil and gas right-of-way lease applications in accordance with the Act of May 21, 1930, are addressed in Handbook 3109-1.

1. Lease Form. All Federal oil and gas leases LEASE FORM shall be issued on the current BLM-approved lease form (Form 3100-11; see Illustration 1). Lease forms that have been deemed obsolete through publication of a notice in the FORMS DEEMED Federal Register shall not be acceptable for the filing of OBSOLETE a noncompetitive lease offer subsequent to the effective NOT ACCEPTABLE date stated in the published notice. Currently, all lease forms prior to the June 1988 edition have been deemed obsolete. (In March 1984, Form 3100-11 was created as a consolidation of the earlier public domain, acquired, and future interest Forms 3110-1, 3110-2, 3110-3, 3120-1, 3120-7, 3130-4, 3130-5, and 3130-7.) The current lease form was revised in October 1992 to reflect the change in the primary lease term for competitive leases established by the Energy Policy Act of October 24, 1992. The primary term of competitive leases is now identical to the primary term of noncompetitive leases, i.e., 10 years in duration. If a lease offer is filed on a lease form that subsequently

has been deemed obsolete by a Federal Register publication prior to issuance of the lease, the signature of the authorized officer shall be on the new edition of the lease form, with signature of the offeror also required on the new edition of the lease form. The Form 3100-11 may be periodically updated and reprinted with certain LEASE FORM clarifications or revisions, however, the previous edition UPDATES - of the lease form may not necessarily be deemed obsolete, DISTRIBUTION as occurred with the October 1992 revision. In such a AND USE case, State Offices may continue to use the previous edition of the lease form until the new edition is available and distributed by the BLM Printed Materials Distribution Section (BC-650B). When the new edition of the lease form is received by BC-650B, it destroys the old forms and distributes the revised forms automatically. The BLM State Offices are expected to manage their stock and the use and distribution of revised lease forms in the same manner. If a noncompetitive lease offer is submitted on the June 1988 edition of the lease form, the lease form is acceptable since the June 1988 form has **not** been deemed obsolete by a Federal Register notice publication.

12

## **H-3101-1 - ISSUANCE OF LEASES**

### Keywords

#### H. Acreage Limitations ACREAGE

#### LIMITATIONS

1. Requirements. All potential lessees must

certify that they hold no more than 246,080 acres of oil MAXIMUM ACREAGE and gas leases on public domain lands and 246,080 acres of LIMITATION FOR oil and gas leases on acquired lands minerals in any one PUBLIC DOMAIN geographic State, except Alaska, at any one time. No more SEPARATE FROM than 200,000 acres of each type of land within a State may ACQUIRED LAND be held under option. In Alaska, 300,000 acres of each LEASE ACREAGE type of land may be held in each of the two leasing LIMITATION districts, of which no more than 200,000 acres within each leasing district may be held under option. The acreage in public domain mineral leases is charged separately from ACREAGE acquired lands mineral leases since the Mineral Leasing Act CHARGEABILITY for Acquired Lands of 1947 is a separate leasing authority from the initial leasing authority for public domain minerals, i.e., the Mineral Leasing Act of 1920. The signature of the applicant on the lease form automatically provides certification that the potential lessee does not exceed the statutory acreage limitation, as does signature on the BLM-approved record title assignment and operating rights transfer forms (Forms 3000-3 and 3000-3a) and the BLM-approved bid form (Form 3000-2).

No offer or application for a noncompetitive lease, or LEASE OFFERS competitive lease bid, is charged against the acreage NOT CHARGEABLE limitation until a lease is issued. Options on lease offers, applications, or bids are not chargeable. However, options on leases are chargeable and are treated as leases in that they are exempt from acreage chargeability if the lease is unitized or within a cooperative or drilling plan

or is in a development contract.

Acreage held in leases issued under the Act of May 21, 1930 ACT LEASES 1930, are not chargeable since such leases are not subject NOT CHARGEABLE to the acreage limitation provisions of the Mineral Leasing Act of 1920.

Acreage in a future interest lease does not count against FUTURE INTEREST the acreage limitation until the mineral interest vests in LEASE ACREAGE NOT the United States. Prior to that date, the acreage in CHARGEABLE UNTIL such a lease is **not** chargeable. MINERALS VEST IN THE UNITED STATES

13

### **H-3101-1 - ISSUANCE OF LEASES**

#### Keywords

Fractional interest held by the United States in mineral FRACTIONAL lands is charged to a lessee as a proportionate share of INTEREST the total. For example, if the United States owns CHARGEABILITY 75 percent of the mineral interest in 320 acres contained in a lease, the lessee shall be charged with only 240 acres in that lease.

A party holding an undivided interest in a lease, for UNDIVIDED example, 10 percent undivided interest, shall be chargeable INTEREST for 10 percent of the acreage covered by the lease. For CHARGEABILITY example, the party would be chargeable for 64 acres of a lease containing 640 acres.

A stockholder who owns or controls more than 10 percent of STOCKHOLDER the stock of a corporation has his/her share of the acreage ACREAGE computed based on the stockholder's proportionate share of CHARGEABILITY

the corporation's stock. For example, if an individual holds 1,000 chargeable acres directly and also holds 20 percent of the stock in the XYZ Oil Corporation, and the XYZ Corporation has 200,000 chargeable acres, the individual stockholder is charged with an additional 40,000 acres, for a total of 41,000 chargeable acres. The individual stockholder's chargeable acreage, however, is **not** to be included as part of the corporation's chargeable acreage.

For a partnership, acreage is chargeable to the individual PARTNERSHIP partners in proportion to the interest they hold in the CHARGEABILITY partnership, but as a partnership they cannot exceed the maximum acreage limitation.

Parties holding only operating rights in leases, when the SEVERED OPERATING operating rights have been severed from record title RIGHTS INTERESTS ownership, shall be chargeable for that lease acreage held IN ACREAGE solely through operating rights interests. However, the CHARGEABLE acreage chargeable due to the operating rights holdings shall not exceed the total acreage contained in the lease.

Leases committed to an approved unit or cooperative plan ACREAGE and leases subject to an approved operating or drilling COMMITTED plan, or leases in a development contract, are **not** counted TO UNIT NOT in acreage chargeability computations. Acreage eliminated CHARGEABLE from such a plan does again become chargeable. Acreage in any lease committed to a communitization agreement (CA) is chargeable.

## H-3101-1 - ISSUANCE OF LEASES

### Keywords

When a lease is committed to both a unit or cooperative COMMITMENT TO plan and to a CA, the lease acreage shall not be UNIT PLAN chargeable. The commitment of the lease to the unit or DOMINATES OVER cooperative plan dominates over the commitment of the COMMITMENT TO CA lease to the CA. If the lease is eliminated from the unit or cooperative plan, and is not included in any other unit or cooperative plan but remains in the CA, the lease acreage is chargeable.

At any time, the authorized officer may issue a decision ACREAGE that requires a lessee or operator to file a statement with SHOWING the BLM State Office indicating the leases held as of a REQUIRED specified date in a geographic State by the lease serial number and the date each lease was issued.

2. Excess Acreage. When a lease is eliminated EXCESS ACREAGE in whole or in part due to contraction or termination of a DUE TO PARTIAL unit or cooperative plan, or operating, drilling or OR TOTAL development contract, the acreage is again chargeable to ELIMINATION the lessee's acreage limitation. When excess acreage FROM UNIT results from such an action, issue a decision advising the lessee that 90 days are allowed from the effective date of the lease's elimination from the plan or from the date the decision is received, whichever is later, to divest the excess acreage and to file proof of the divestiture with the BLM State Office (see Illustration 2).

When, as a result of a merger or purchase of the EXCESS ACREAGE

controlling interest in a corporation, a corporation or DUE TO MERGER

other entity controls more than the allowed acreage, issue

a decision informing the lessee that 180 days are allowed

from the date of the merger or purchase within which to

divest the excess acreage (see Illustration 3).

If additional time is required by the lessee to complete ADDITIONAL TIME

the divestiture, the lessee must submit a letter of ALLOWED FOR

petition to the proper BLM office requesting additional DIVESTITURE

time, and providing a complete justification for the

additional time needed. The petition must be received

prior to the end of the 90- or 180-day period.

If the entity or person does not relinquish the excess CANCELLATION

acreage holdings within the time allowed, the excess OF EXCESS

acreage that is in violation of the acreage limitations ACREAGE

is cancelled by the BLM in the inverse order of acquisition

of the lease or interests therein.

15

## **H-3101-1 - ISSUANCE OF LEASES**

### I. Joinder Evidence for Leases Issued for Lands Keywords

#### Within Units and Communitization Agreements

Prior to issuance of a lease for lands within an approved JOINDER EVIDENCE

unit or cooperative plan or within a CA, the potential REQUIRED

lessee is required to furnish evidence of joining the unit

or CA. Joinder involves the participation of the lease in

the development and operations of the lands within the

boundary of the CA or unit or cooperative plan. Joinder of

the lease to a unit or cooperative agreement is required to

ensure operations under the terms and provisions of the approved unit or cooperative agreement and the unit operating agreement. Operators normally cannot operate independently in a Federal CA, nor in a unit or cooperative agreement.

Upon receipt of acceptable joinder evidence, the lease is issued subject to the unit or CA. The effective date of commitment of a new lease to the unit or CA is the effective date of the lease. A notation is made on the face of the lease case file that the lease is committed to the unit or CA. (See Handbook 3105-1.)

If the potential lessee is unable to join the unit, the JOINDER potential lessee must submit a letter from the unit NOT ABLE TO operator stating that there is no objection to lease BE OBTAINED lease issuance joinder. However, the BLM Field Office fluid mineral operations staff must review the facts concerning the failure to obtain joinder and determine that lease issuance without unit joinder is acceptable.

ALMRS Entry: Enter Action Date: Date applicant shows AUTOMATED sufficient reason why joinder not required; DE 1775 Action NOTATION Code 689/DE 2910 Action Code 908; Action Remarks: Serial number of unit.

If a noncompetitive offer includes lands both inside and SEGREGATE UNIT outside an approved unit agreement boundary, the LANDS IN nonunitized lands shall be segregated into a separate NONCOMPETITIVE lease parcel prior to lease issuance. (See Handbook LEASE OFFER 3105-1, Section I.B, and Handbooks 3110-1 and 3120-1.)



Occasionally, during the presale parcel preparation period SEGREGATE UNIT before a competitive lease sale is held, or before lease LANDS IN issuance, some of the lands in a parcel as originally COMPETITIVE configured will be determined to be within an approved unit PARCEL PRIOR TO or cooperative plan. In such situations, if there is LEASE ISSUANCE insufficient time to separate the lands into separate parcels and provide notice of the redefined parcels with their changed acreage before the oral auction, the lease parcel shall be segregated just prior to the time of lease issuance with issuance of two separate leases.

16

### **H-3101-1 - ISSUANCE OF LEASES**

#### **J. Lease Modification Keywords**

A lease may need to be modified after issuance for a LEASE variety of reasons. For example, the legal land MODIFICATION description (LLD) may change when unsurveyed lands are surveyed into an approved protracted or public survey.

The LLD and acreage of a lease also may change when a resurvey is completed. The LLD and acreage of a lease MODIFICATION that is changed due to a resurvey shall be effective the OF LEASE DUE TO first anniversary date following lessee notification of RESURVEY the changes when the lease is in a nonproducing status.

Lessee notification, ideally, is to occur immediately after the official approval and filing of the changed plat.

Any increase in the rental resulting from the acreage increase due to the resurvey is to be collected beginning the next anniversary date following lessee notification.

However, for producing leases committed to an approved unit or cooperative plan or to a CA, upon the official filing of the revised plat, the lessees and operator are to be promptly notified of the acreage changes that occurred due to the resurvey and the allocation schedule is to be revised as of the effective date of the plat adjustment.

The Interior Board of Land Appeals (the) has addressed several decisions concerning revisions to leases when a resurvey has occurred. Where a surveyed lot of public land riparian to a nonnavigable body of water is leased for oil and gas according to the plat of survey, the area covered by the original lot remains in the lease, even though part of the lot is thereafter covered by water, so long as the United States retains title to the riverbed. (See James L. Harden, Carl A. Nilsen, 15 the 187 (1974).)

Where riparian public land has been completely eroded away by the actions of a navigable river, title is lost to the United States and, where said river is subsequently restored through accretion by the continued action of the river, title belongs to the riparian owner. (See David A. Provinse, 81 the 148 (1984).) (See also Handbook 3110-1, Section III.C. 5.)

A lease may be modified as a result of a newly enacted law or when a stipulation is no longer needed on the lease.

See Section II of this Handbook for modification or waiver of lease stipulations.

Responsible

## Official Step Action Keywords

Adjudication 1. Receive notification of the official CHANGE IN LLD approval and filing of the survey or AND/OR ACREAGE resurvey.

17

## **H-3101-1 - ISSUANCE OF LEASES**

Responsible

## Official Step Action Keywords

2. Request new plats or other appropriate records and identify all the leases that are affected.

3. Request the lease case files from Docket.

4. Issue a decision to the lessee (and operator for producing leases) advising of the change in land description, acreage, rental, etc., as appropriate (see Illustration 4).

5. Prepare an accounting advice to the ACCOUNTING Minerals Management Service, Data ADVICE Management Division (MMS-DMD) when the acreage and rental are required to be modified (see Illustration 5).

6. Send the case files for ALMRS Entry through Docket.

ALMRS Entry 7. Enter Action Date (MANDATORY ACTION AUTOMATED CODE): Date of decision amending land NOTATION

description to conform to survey or  
resurvey; DE 1775 Action Code 209/DE  
2910 Action Code 913; Action Remarks:  
EFF MM/DD/YY; (usually next anniversary  
date after decision notifying lessee of  
survey/resurvey).

8. Modify LLD and acres in lease record in  
ALMRS, as applicable.

9. For other types of lease modifications -

9a. Enter Action Date (MANDATORY  
ACTION CODE): Date of decision

modifying lease; DE 1775 Action  
Code 607/DE 2910 Action Code 238;

Action Remarks: Enter tie to

General Remarks; General Remarks:

Explain reason for lease

modification.

9b. Enter Action Date: Other

appropriate mandatory action codes

based on current lease data

standards guidance.

18

## **H-3101-1 - ISSUANCE OF LEASES**

Responsible

Official Step Action Keywords

10. Send the case files to Title Records  
through Docket.

Title Records 11. Make corrections to appropriate RECORDS

records. NOTATION

12. Place a copy of the new plat in the

lease case file.

Docket 13. File case file on regular shelf.

19

### **H-3101-1 - ISSUANCE OF LEASES**

#### **K. Private Oil and Gas Leases Keywords**

Federal agencies, particularly the Forest Service and the PRIVATE

Corps of Engineers, are continuously acquiring additional LEASES

land, such as by exchange or purchase. In addition, some

private leases are acquired through condemnation

proceedings. (See Manual Section 3101.93.) A private oil

and gas lease may cover all or part of the acquired land.

When this occurs, the acquiring agency is to notify the BLM

and provide a copy of the deed and lease. Section 2506 of

the Energy Policy Act, effective October 24, 1992, requires SMA MUST

that each department, agency, or other instrumentality of TRANSFER

the United States that administers lands acquired by the PRIVATE LEASE

Federal Government with existing mineral leases shall TO BLM TO

transfer the authority to administer such leases to the ADMINISTER

Department of the Interior. The Departmental Manual

delegates the authority to administer these private leases

to the BLM. The authority to collect all receipts due and

payable to the United States also was transferred to the

Department of the Interior, BLM.

The following procedures are to be used by the BLM to

handle a private oil and gas lease. Upon expiration of a private lease, the lands are available for oil and gas lease in accordance with the Federal leasing regulations and must be processed through the competitive leasing process before being available for any noncompetitive oil and gas lease.

Responsible

Official Step Action Keywords

Receiving 1. Receive copies of the condemnation RECEIVE Official proceedings, memorandum, or transmittal NOTIFICATION letter from the acquiring agency with FROM ACQUIRING copies of the deed, leases, and any AGENCY assignments (see Illustration 6).

Date/time stamp the original copy and forward to Docket.

Docket 2. Initiate a case file, serialize, and PREPARE record in the log book in same manner CASE FILE as a presale noncompetitive lease AND SERIALIZE offer. No filing fee or annual rental is required to be submitted. Forward to Adjudication.

Adjudication 3. Review the lease and/or assignment for REVIEW LEASE the terms and conditions, and determine AND/OR ASSIGNMENT if all or part of the land acquired is DOCUMENTS affected. Forward the case file to Records/Status through Docket.

## H-3101-1 - ISSUANCE OF LEASES

Responsible

### Official Step Action Keywords

Title 4. Enter the lease on the records and RECORDS

Records check for lease offers or other NOTATION

conflicts. Put a copy of the updated

plat and a complete status report in

the case file.

5. Forward for ALMRS Entry through Docket.

ALMRS Entry 6. Enter lease as Case Type 310112.

7. Enter Action Date (MANDATORY ACTION AUTOMATED

CODE): Date private lease came into NOTATION

Federal ownership and under BLM

jurisdiction; DE 1775 Action Code

001/DE 2910 Action Code 387; Action

Remarks: Optional.

8. Print the serial register page and

place in the case file. Forward the

case file to Adjudication.

Adjudication 9. Check to determine if there is any CHECK FOR

production on the lease prior to PRODUCTION

advising the lessee of the Federal ON LEASE

lease status.

10. Notify the current lessee by certified NOTIFY PRIVATE

notice that, due to the SMA's LESSEE OF

acquisition of the land, the United FEDERAL LEASE

States is now the lessor. If the lease SERIAL NUMBER

is in a nonproducing status, require  
the next rental payment to be made to  
the MMS-DMD (see Illustration 7).

Provide the lessee with the proper  
MMS-DMD address for all inquiries  
concerning royalty payments, as  
applicable.

11. Send a courtesy copy of the certified COPY OF NOTICE  
notice to the acquiring agency and to TO SMA AND  
the appropriate Field Office fluid FIELD OFFICE  
mineral operations staff so that their OPERATIONS  
records will show the BLM-assigned  
serial number.

21

### **H-3101-1 - ISSUANCE OF LEASES**

Responsible

#### Official Step Action Keywords

12. If the lease is in a nonproducing ACCOUNTING  
status, prepare an accounting advice ADVICE  
in accordance with the terms of the  
private lease to transfer the lease  
account to the MMS-DMD (see  
Illustration 8).

13. If the lease is in a producing status, NOTIFY MMS  
provide the MMS-DMD all the required IF LEASE IN  
information it needs to establish a PRODUCING  
royalty payor account. STATUS



NOTE: Private leases are subject to the terms and conditions of the lease contract. Administration of future actions on the lease must be consistent with the terms of the lease as it existed when the lands were acquired by the United States (see Appendix 1).

14. Forward case file through Docket for ALMRS Entry.

ALMRS Entry 15. Enter Action Date (MANDATORY ACTION AUTOMATED CODE): Date of decision notifying NOTATION private lessee of BLM-assigned serial number; DE 1775 Action Code 176/DE 2910 Action Code 237.

16. Enter Action Date (MANDATORY ACTION CODE): Effective date of lease when Federal Government became owner of mineral estate; DE 1775 Action Code 225/DE 2910 Action Code 868.

17. Enter Action Date: All other appropriate mandatory action codes for Case Type 310112, Private Lease, using current data standards guidance (see Illustration 9).

Docket 18. File case file on regular shelf.

## **H-3101-1 - ISSUANCE OF LEASES**

### II. Lease Terms and Conditions Keywords

#### A. General

All Federal mineral estate subject to oil and gas leasing, STANDARD LEASE regardless of surface ownership, is subject to the standard TERMS AND lease terms and conditions provided in the lease Form CONDITIONS 3100-11 (see Illustration 1). See Manual Section 3101.11 for a discussion of the provisions of the lease form, and Manual Section 3101.12 concerning surface use rights, other SURFACE USE reasonable measures, and nondiscretionary laws affecting RIGHTS oil and gas lease operations.

#### B. Lease Stipulations

Manual Sections 3101.06C and 3101.13 address the policy and LEASE requirements concerning the use of lease stipulations and STIPULATIONS the uniform formats for lease stipulations. The contents of the uniform stipulation formats are shown in the illustrations contained in Manual Section 3101. The uniform stipulation formats are to be used by all BLM Field Offices to provide consistency and increased clarity of each specific stipulation required. Performance-based, rather than designed-based, stipulations shall be used. Other SMA's are to be encouraged to also use the uniform stipulation formats. The stipulations imposed by the BLM and other Department of the Interior agencies are BLM/DOI AGENCY appealable by the prospective lessee or other affected STIPULATIONS parties to the IBLA. The IBLA will normally uphold the APPEALABLE

BLM's discretion to apply stipulations, provided a TO IBLA stipulation meets the "necessary and justifiable" criteria. A "necessary" stipulation is one that does not duplicate existing laws, regulations, lease terms, Onshore Oil and Gas Orders, or Notices to Lessees. A stipulation is "justifiable" if there are resources, values, uses and/or users identified on the lands contained in the oil and gas lease parcel that, in the absence of such a stipulation, cannot coexist with oil and gas operations, or that cannot be adequately managed and/or accommodated on other lands during the oil and gas operations. Any stipulations NON-BLM/DOI required by an SMA other than the BLM or other Department AGENCY of the Interior agency are appealable by the prospective STIPULATIONS lessee or other affected parties through the administrative APPEALABLE procedures of that agency (see 43 CFR 3101.7-3(b)). (See TO THAT SMA Appendix 2 for a listing of pertinent IBLA decisions concerning stipulations.)

24

## **H-3101-1 - ISSUANCE OF LEASES**

### **C. Lease Case File Documentation for Stipulations Keywords**

The lease stipulations are to be documented in the lease STIPULATION case file by referencing the appropriate BLM land use plan DOCUMENTATION and/or environmental analysis documents that address the IN LEASE FILE restrictions and stipulations required on the specific lands in each lease parcel. When stipulations are required by another SMA, a copy of the documents received from the SMA also are to be retained in the lease case file. When

the IBLA reviews a case, the only information available to it are the documents contained in the official case file and the information provided by the appellant. Therefore, when the BLM makes a leasing decision, including that based on another agency's recommendations, the official case file must contain all of the necessary documentation.

#### D. Information Notices

The primary purpose of an information notice is to alert INFORMATION the lessee that certain values exist on the lease area NOTICES that may be required to be addressed in any lease operations. Information notices are a courtesy and serve to give emphasis to requirements that already exist in the terms and conditions of the lease form, laws, regulations, or operational orders. Information notices shall **not** be used as a basis for denial of lease operations. (See Manual Section 3101.13B.)

25

### **H-3101-1 - ISSUANCE OF LEASES**

#### III. Coordination with Other Surface Management Agencies Keywords and Private Surface Owners

##### A. Split Estate Lands SPLIT ESTATE

##### LANDS

Lands are referred to as split estate lands when the surface estate has been segregated from the Federal mineral estate with the title of the surface estate conveyed to another party. Usually, split estate lands occur when the surface estate is patented with a reservation of the

mineral estate to the Federal Government. The BLM is responsible to ensure that authorized mineral development meets all statutory and regulatory requirements.

Activities and use of the surface are not subject to the Federal Land Policy and Management Act (FLPMA) planning requirements, and the BLM does not have authority under FLPMA over use of the surface by the surface owner.

However, the BLM is required to analyze in land-use planning and NEPA documents the impacts to surface resources, uses, and users from any BLM-authorized oil and gas development. Therefore, the NEPA responsibilities on split estate lands are basically the same as for Federal surface. See Manual Section 3101.91 for further discussion of the BLM responsibilities for split estate lands.

If a surface owner refuses access for needed entry to SURFACE OWNER obtain information, e.g., information on cultural or REFUSAL historic resources or on threatened or endangered species, FOR ACCESS previous inventories or sufficient information on the surrounding area may be available. Otherwise, it may be necessary to obtain a court order to be allowed access. If an order from the U.S. District Court is needed, contact the appropriate Regional or Field Solicitor's Office for assistance. Generally, two documents are required to file the court action. These documents are a copy of the original patent or document that segregated and conveyed the surface estate and a signed, notarized affidavit for each BLM employee who was refused entry. The affidavit

must explain the reason or reasons why entry is needed for each person, the dates and times the surface owner was contacted, and the date entry was refused.

26

## **H-3101-1 - ISSUANCE OF LEASES**

### **B. Coordination with Other Surface Management Keywords**

#### **Agencies**

As the Federal Government's mineral leasing agent, the BLM COORDINATION is required to ensure that any NEPA analysis conducted by WITH OTHER another agency meets the BLM requirements. The BLM has SMA'S agreements with certain other SMA's which provide for BLM participation in that agency's planning process and/or NEPA analysis documents, such as with the FS. This eliminates the necessity for the BLM to develop its own NEPA documentation. Coordination of analyses for leasing actions by the BLM as a cooperating agency with other SMA's under the provisions of 40 CFR 1506.3 is important to meet the BLM and NEPA requirements. The NEPA regulations state that a cooperating agency, such as the BLM, may adopt the environmental analysis documentation of a lead agency when, after an independent BLM review of the statement, the BLM concludes that its comments and suggestions have been satisfied. The BLM must ensure that the standards and requirements of the supplemental program guidance for energy and mineral resources (see Manual Section 1624.2 and Handbook 1624-1) are met to adequately support oil and gas leasing decisions. If the BLM was not a cooperating

agency, it may adopt another SMA's environmental analysis documentation as long as the NEPA, Departmental, and BLM guidelines are met. If the BLM has not adopted the NEPA analysis written by the SMA, the BLM must prepare the analysis to document the stipulations required by the SMA for a lease parcel. Any lease sale parcels or presale noncompetitive offers for lands administered by another SMA on which NEPA analysis has not been completed shall be placed in suspended status until the NEPA and BLM requirements have been completed to properly document the stipulations that are to be attached to the parcel. If the party making the noncompetitive offer or informal expression of interest objects to the delay in processing the lands for leasing or raises other concerns, direct them to the appropriate SMA.

1. Lands Administered by the Forest Service. COORDINATION WITH

An Interagency Agreement (IA) between the FS and the BLM FOREST SERVICE for oil and gas leasing was signed in November 1991. A separate agreement for oil and gas operations also was signed in November 1991. See Appendix 3 for copies of these two agreements. The purpose of the agreements is to ensure cooperative, timely, and efficient action by both agencies with respect to oil and gas actions on National Forest System lands, and to establish procedures in accordance with the Federal Onshore Oil and Gas Leasing Reform Act.

## H-3101-1 - ISSUANCE OF LEASES

### Keywords

The IA for leasing between the BLM and FS addresses the leasing analyses and the coordination of analyses between the two agencies. The leasing analysis for any split estate lands that are within the boundaries of a National Forest System unit is to be conducted as part of the analysis completed for the FS land unit.

The third section of the leasing IA requires the BLM State FOREST SERVICE Office Adjudication to provide the appropriate FS office a REVIEW OF copy of the Notice of Competitive Lease Sale at least 30 SALE NOTICE days prior to the final printing and posting of the sale PRIOR TO notice to allow the FS 30 days to review and respond that OFFICIAL POSTING the correct stipulations are being used for each sale parcel on FS lands.

The IA also requires the BLM to provide copies of leases on NOTIFICATION OF FS lands to the FS within 60 days after lease issuance, and LEASING ACTIONS to notify the appropriate FS office within 60 days of TO FOREST SERVICE relinquishment, termination, expiration, cancellation, unitization, or extension of leases.

### 2. Lands Administered by the Bureau of COORDINATION

Reclamation. In accordance with the IA between the BLM and WITH BUREAU OF the Bureau of Reclamation (BR) dated March 25, 1983, the RECLAMATION BLM will not issue permits, leases, or licenses on lands under the BR's management without the BR's consent and concurrence on all conditions and stipulations. When leases are issued, a stipulation will generally be used to



protect environmental and resource values that the BR is charged to protect. The IA requires the BLM State Offices to request that the BR determine whether leasing is permissible and, if so, to provide the required stipulations. The BR will respond to requests for leasing clearance within 60 days when adequate records are readily available. When adequate records are not available, the BR will provide an interim progress report within 30 days.

(See Appendix 4 for the applicable section of the BLM/BR IA.)

### 3. Lands Administered by the National Park COORDINATION

Service. A Memorandum of Understanding (MOU) between the WITH NATIONAL BLM and the National Park Service, dated January 29, 1987, PARK SERVICE covers planning and program coordination. The MOU is a basic "umbrella" agreement providing for coordination and cooperation between the two agencies in respect to many programs, including oil and gas resource management.

28

## **H-3101-1 - ISSUANCE OF LEASES**

### Keywords

The Department of the Interior policy, however, is that NATIONAL PARK unless Congress has specifically declared a unit of the SYSTEM LANDS National Park System to be open to leasing or unless NOT AVAILABLE drainage of oil and gas is occurring, leasing shall not be EXCEPT FOR considered (Federal Register, Vol. 52, No. 7, Page 1225, DRAINAGE CASES published January 12, 1987). Certain other National Park AND CERTAIN System lands open to leasing are addressed at 43 CFR OTHER AREAS

3109.2. However, certain areas in the Lake Chelan and Ross Lake National Recreation Areas where the leasing of minerals formerly had been allowed were withdrawn from mineral leasing by Section 206 of the Act of November 16, 1988.

4. Lands Administered by the Fish and Wildlife Service COORDINATION WITH SERVICE. An agreement between the BLM and the Fish and FISH AND WILDLIFE

Wildlife Service (FWS) was implemented December 24, 1986. SERVICE

Since leasing is not allowed on FWS lands in the lower 48 States by Departmental policy, oil and gas was not covered in this basic interagency agreement. See Manual Section 3101.51C for drainage situations involving FWS or coordination lands.

5. Lands Administered by the Department of Defense COORDINATION WITH DEPARTMENT OF

DEFENSE. For lands administered by the DOD, the BLM must obtain consent to lease in accordance with the Engle Act DEFENSE (43 U.S.C. 158). If the DOD does not concur with leasing, it must provide the rationale for such a determination. An MOU was signed between the BLM and DOD on January 26, 1984.

The purpose of the MOU is to establish procedures to facilitate the coordination efforts between the two agencies in the exploration, development, and production of oil, gas, and geothermal resources on DOD-administered lands. Under the terms of the MOU, the BLM is to undertake the following procedures:

a. Upon receiving a request from the MILITARY LANDS Secretary of a Military Department or the Secretary's REVIEW FOR

duly authorized representative, or from industry that COMPATIBILITY certain lands be offered for lease, or at its own OF OIL AND GAS initiative deciding to offer certain lands, the BLM is to DEVELOPMENT determine whether the lands in question are within areas designated by DOD as incompatible for exploration, development, and production of oil and gas or geothermal resources where such designations by the DOD have been made.

29

### **H-3101-1 - ISSUANCE OF LEASES**

#### Keywords

b. The BLM is to request oil and gas lease applicants to specify the name of the installation and the acquisition tract number of the land covered by the application/offer to simplify the DOD title search.

c. The BLM is to ensure the NEPA compliance.

d. The BLM is to request a title report and request for consent to lease from the appropriate DOD officials.

e. The BLM is to forward a copy of the lease upon issuance to the appropriate DOD officials.

Under the terms of the MOU, the DOD is to provide the BLM DOD PROVIDES information designating which areas under its jurisdiction ENVIRONMENTAL are incompatible for exploration, development, and INFORMATION production of oil and gas or geothermal resources. Upon AVAILABLE request, the DOD also is to provide the BLM any environmental and cultural resource information that the

DOD has available. The DOD will provide title reports, consent, and stipulations for lease issuance, or reasons for withholding lease consent. No leases may be issued for any DOD-administered lands without the stipulations required by the DOD.

In conjunction with the Department of Defense policy to ARMY DEPARTMENT promote the optimal use of its lands under the multiple-use LEASING principle, the Department of the Army is to make all of its PROVISIONS AND lands available for oil and gas leasing, except at STANDARD LIST installations or civil works projects specifically excluded OF STIPULATIONS from such leasing upon the recommendation of the Chief of Staff or Chief of Engineers, with approval of the Secretary of the Army. Such leasing may be made subject to stipulations, restrictions, or prohibitions limiting on-post or on-project surface occupancy or the lessee's operations. Any such conditions shall be imposed only to the extent necessary to protect military operations, National defense activities, civil works activities, or the public interest. The standardized Department of the Army stipulations have been approved for use by base commanders (see Appendix 5). Stipulations may be selected from this list by base commanders without further discussion. For any additional stipulations, the base commanders is to be encouraged to follow the uniform stipulation formats adopted by the BLM.

Keywords

6. Supplemental Agreements Between SMA's and SUPPLEMENTAL

BLM State Offices. The BLM State Offices AGREEMENTS

are encouraged to develop supplemental IA's and MOU's with BETWEEN BLM STATE

regional offices of SMA's under the umbrella national IA's OFFICES AND SMA's

and MOU's. Some State Offices have entered into such

regional agreements, such as the Oregon State Office with

the Bonneville Power Administration, and the Montana State

Office with the Pacific Northwest Region of the Bureau of

Reclamation. These regional IA's and MOU's are to be

incorporated into BLM State Office Manual and Handbook

supplements to Manual Section 3101 or this Handbook 3101-1.

3101 (Office Code)

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

DECISION

Lessee and Address

:  
:  
:  
:  
:

Acreage Limitation Exceeded Due to (Type of Agreement) Termination

Acreage Reduction Required

On (Date), the (Indicate type/name/serial number of cooperative plan or agreement or development contract) automatically terminated in accordance with its terms. The acreage of all leases committed to this agreement once again became chargeable to all holders of interest. Before the agreement terminated, (Lessee name) held (Number) of acres of (Public domain lands/acquired lands minerals, as appropriate) in leases within the State of

(Name). Upon termination of the agreement, (Lessee name)'s chargeable lease holdings are now (Number) acres. This exceeds the maximum number of (Public domain lands/acquired lands minerals) allowable by law by (Number) acres.

In accordance with the Federal oil and gas leasing regulations at 43 CFR 3101.2-4, (Lessee name) is allowed 90 days from the date of termination of the (Cooperative plan or agreement or development contract) to divest itself of the excess acreage. If an extension of time is needed, a written request must be postmarked prior to the end of the 90-day period, and must be received by this office no later than the end of the 90-day period. Failure to comply within the time allowed will result in the cancellation of as many leases and interests therein, in the inverse order of acquisition, as is required to bring (Lessee name)'s holdings within the maximum allowable acreage.

For further information, please contact (Name, Office, Telephone Number).

Authorized Officer

Distribution:

3101 (Office Code)

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

DECISION

Lessee and Address

:  
:  
:  
:  
:

Acreage Limitation Exceeded Due to Acquisition

Acreage Reduction Required

On (Date), (Lessee name) acquired (Name of entity). Before the acquisition, (Name of entity)'s holdings were (Number) acres of (Public domain lands/acquired lands minerals, as appropriate) leases within the State of

(Name). This exceeds the maximum acres of (Public domain lands/acquired lands minerals) allowable by law by (Number) acres.

In accordance with the Federal oil and gas leasing regulations at 43 CFR 3101.2-4, (Lessee name) is allowed 180 days from the date of acquisition to divest itself of the excess acreage. If an extension of time is needed, a written request must be postmarked prior to the end of the 180-day period, and must be received by this office no later than the end of the 180-day period. Failure to comply within the time allowed will result in the cancellation of as many leases and interests therein, in the inverse order of acquisition, as is required to bring (Lessee name)'s holdings within the maximum allowable acreage.

For further information, please contact (Name, Office, Telephone Number).

Authorized Officer

Distribution:

3101 (Office Code)

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

DECISION

Lessee and Address

:

:

:

Oil and Gas Lease

:

(Serial Number)

:

Lease Description/Acreage Conformed to (Survey/Resurvey)

As a result of a (Dependent resurvey/resurvey/private survey/survey, as appropriate), the description and acreage of the referenced lease is hereby conformed as shown below.

(Current Legal Land Description) (New Legal Land Description)

(Containing (Number) acres) (Containing (Number) acres)

NOTE: It is a courtesy to underline those portions of the legal land description that were changed from the prior description to the new legal land description, and to indicate the changed acreage.

This change in land description and acreage is effective (Date).

Standard appeal paragraph (see Handbook 3100-1, Chapter 1).

Authorized Officer

Enclosure

Form 1842-1

Distribution:

Field Office Operations (if operations on lease)

SMA (if other than BLM)

MMS-DMD, Mail Stop 3110 (if lease in nonterminable/producing status)

3101 (Office Code)

CERTIFIED MAIL--RETURN RECEIPT REQUESTED

NOTICE

Lessee and Address

:

:

:

Oil and Gas

:

:

Oil and Gas Lease Transferred

In exchange for federally-owned lands, (Grantor's name) executed a Warranty Deed on (Date) conveying to the United States Department of Agriculture, Forest Service the following lands containing (Number) acres:

(Legal land description)

The deed is subject to an oil and gas lease issued to you on (Date). The Forest Service Regional Office has furnished this office a copy of your oil and gas lease with (Grantor's name) as lessor. The lands covered by your lease conveyed to the United States by the Warranty Deed identified above will now be administered by the Bureau of Land Management (BLM) with the Forest Service as the surface management agency.

The oil and gas lease has been assigned serial number (Number) by this office. All future correspondence should refer to this BLM-assigned serial number.

You are hereby notified that future annual rentals for the above leased lands must be submitted to the following address:

Minerals Management Service

Royalty Management Program

P.O. Box 5640

Denver, Colorado 80217

Inquiries concerning operations on the lease should be addressed to our District Office at (Address).

Authorized Officer

Distribution:

Acquiring Agency

BLM Field Office

Appendix 2, Page 1



(II.B)

## H-3101-1 - ISSUANCE OF LEASES

### Reference List of IBLA Decisions Concerning Lease Stipulations

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March 24, 1986 - James M. Chudnow (91 IBLA 143)

#### Oil and Gas Leases: Stipulations

The Bureau of Land Management is not authorized to reject conditions imposed by the United States Forest Service upon acquired land managed by the Forest Service pursuant to the Mineral Leasing Act for Acquired Lands, 30 U.S.C. 352 (1982). Where an oil and gas lessee objects to provisions of an apparent attempt by the Forest Service to condition the terms of their oil and gas lease on acquired land, agencies of the Department of the Interior may not adjudicate the validity of the challenged conditions.

=====

January 30, 1985 - Beartooth Oil & Gas Co. (85 IBLA 11)

#### Oil and Gas Leases: Stipulations

Where an oil and gas lessee does not protest or appeal a stipulations added by BLM to a permit to drill within 30 days after notice thereof, the lessee cannot be heard to complain about the stipulation as long as BLM's interpretation of the stipulation is reasonable. Where the Board determines that the plain language of a stipulation in a permit to drill is clear and unambiguous in its imposition of liability on the operator if a specified archaeological site is altered, BLM must be affirmed in its enforcement of the stipulation.

=====

June 24, 1983 - Gary D. Askins (74 IBLA 12)

#### Oil and Gas Leases: Stipulations

Under the Mineral Leasing Act for Acquired Lands of 1947, as amended, 30 U.S.C. 351-359, if the lands embraced within an oil and gas lease application are under surface jurisdiction of a bureau within the Department of the Interior, such as the Bureau of Reclamation, the consent of the Secretary of the Interior or their proper delegate is necessary under the Act for leasing of the land. Where the Bureau of Land Management, based on the recommendation of the Bureau of Reclamation, requires the execution of a stipulation prohibiting all drilling operations on any of the lands described in the lease as a condition to issuance of an oil and gas lease, the record must reflect that such stipulation is supported by valid reasons weighed with due regard for the public interest, including evidence that less stringent alternatives would not adequately accomplish the intended purpose.

=====

Appendix 2, Page 2

## H-3101-1 - ISSUANCE OF LEASES

April 4, 1983 - Bill J. Maddox (72 IBLA 22)

## Oil and Gas Leases: Stipulations

The Secretary of the Interior may, in their discretion, condition the issuance of an oil and gas lease upon the acceptance of stipulations reasonably designed to protect environmental and other land use values. Where on appeal evidence suggests that a "no surface occupancy" stipulation has embraced more land than necessary to protect the identified resource values due to BLM's use of full legal subdivisions to describe the land to be so restricted, and that a topographical description might provide the same protection while limiting the restriction to a smaller area, the decision will be set aside and remanded for reconsideration.

=====

February 15, 1983 - Western Interstate Energy, Inc. (71 IBLA 19)

## Oil and Gas Leases: Stipulations

Rejection of an oil and gas lease offer is a more severe measure than the most stringent stipulations and the record supporting a decision rejecting a lease offer in the public interest should ordinarily reflect consideration of whether leasing subject to clear and reasonable stipulations would adequately protect the public interest concerns of the surface management agency.

=====

January 26, 1983 - Fortune Oil Co. (70 IBLA 286)

## Oil and Gas Leases: Stipulations

Where BLM rejects noncompetitive oil and gas lease offers in part and imposes no surface occupancy stipulations on almost all of the remaining lands, covering almost 19,000 acres, and where the record contains nothing explaining BLM's reasons for its decision and no evidence showing that its decision was valid as to the specific lands involved, BLM's decision will be set aside and the matter remanded for further consideration.

=====

January 24, 1983 - James M. Chudnow, John L. Messinger (70 IBLA 225)

## Oil and Gas Leases: Stipulations

The Board of Land Appeals will affirm a decision requiring execution of a no surface occupancy stipulation where the record identifies the resource requiring such protection and explains why less stringent alternatives would be insufficient to provide it. Where the case record does not contain an adequate explanation referable to the specific land included in the lease offer, the record is inadequate for adjudication of the appeal and the case will be remanded to the Bureau of Land Management.

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Appendix 2, Page 3

## **H-3101-1 - ISSUANCE OF LEASES**

November 24, 1982 - James M. Chudnow (69 IBLA 16)

## Oil and Gas Leases: Stipulations

Although the Bureau of Land Management may require such stipulations as are necessary for protection of environmental and other land use values, such stipulations must be supported by valid reasons weighed with due regard for the public interest. A decision to impose a no surface occupancy stipulation will be affirmed where the record on appeal indicates that the restriction is based on valid concerns and the applicant fails to show that the restriction is unreasonable.

=====

September 22, 1982 - Altex Oil Corp. (67 IBLA 197)

#### Oil and Gas Leases: Stipulations

Applicants for oil and gas leases may be required to accept a stipulation as reasonable and in the public interest and in accord with national and departmental policy, which stipulation requires lessees to engage the services of a qualified professional archaeologist to conduct a survey of the areas to be leased for evidences of archaeological or historic sites or materials with the cost to be borne by the lessees.

=====

August 12, 1982 - Anadarko Production Co. (66 IBLA 174)

#### Oil and Gas Leases: Stipulations

Where the notice of a competitive sale of oil and gas leases clearly provided that the leases would be subject to a "No Surface Occupancy" stipulation, by making a bid for the indicated parcel, the bidder was bound to accept the stipulation.

=====

June 30, 1982 - Ted C. Findeiss (65 IBLA 210)

#### Oil and Gas Leases: Stipulations

The Secretary of the Interior may require an oil and gas lease applicant to accept stipulations reasonably designed to protect environmental and other land values as a condition precedent to the issuance of a lease. Where the recommendations to impose stipulations on the lease are based on the need to protect bighorn sheep habitat in an area where it is hoped that these animals will be reestablished, the imposition of protective stipulations will be affirmed.

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Appendix 2, Page 4

### **H-3101-1 - ISSUANCE OF LEASES**

April 2, 1982 - Marta F. Stroock (63 IBLA 119)

#### Oil and Gas Leases: Stipulations

Where separate lease stipulations are proposed by different agencies having management responsibilities for the same land, and their combined effect is to preclude the lessee from operating on any portion of the lease, the case will be remanded for possible modification or substitution to accommodate leasing operations where it appears that neither agency intended that the lessee be barred from surface occupancy of the entire leasehold.

=====

October 27, 1981 - M. Robert Paglee (59 IBLA 192)

Oil and Gas Leases: Stipulations

The Secretary of the Interior may require an oil and gas lease applicant to accept a stipulations reasonably designed to protect a duly established subsurface oil and gas storage area as a condition precedent to the issuance of a lease.

=====

February 27, 1981 - Melvin A. Brown (53 IBLA 45)

Oil and Gas Leases: Stipulations

The Bureau of Land Management may require execution of a no surface occupancy stipulation prior to issuance of a noncompetitive oil and gas lease only where there is evidence that less stringent alternatives would not adequately accomplish the intended purpose of avoiding erosion and protecting the recreational and scenic value of an area.

=====

August 29, 1980 - James O. Breene, Jr. (49 IBLA 350)

Oil and Gas Leases: Stipulations

BLM's decision to impose a no surface occupancy stipulation covering a canyon and creek bed on an oil and gas lease will be affirmed where the record shows that these areas have significant aesthetic values, where much of the balance of the leased lands is apparently suitable for drilling, and where the lessee has previously expressed their willingness to accept the lease subject to designation by BLM of "zones of nondisturbance."

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Appendix 5, Page 1

(III.B.5e)

## **H-3101-1 - ISSUANCE OF LEASES**

### **DEPARTMENT OF THE ARMY**

#### **STANDARDIZED MINERAL LEASING STIPULATIONS**

THESE STIPULATIONS ARE FURNISHED TO ASSIST MACOMS AND THEIR INSTALLATIONS IN PROTECTING DEPARTMENT OF THE ARMY INTERESTS WHEN FEDERAL MINERALS ARE BEING MADE AVAILABLE FOR LEASE. SEE AR 405-30. THE BUREAU OF LAND MANAGEMENT WILL ROUTINELY INCLUDE ANY OF THE FOLLOWING STIPULATIONS WHEN REQUESTED BY THE ARMY. BLM CANNOT ISSUE ANY LEASE FOR LANDS UNDER THE JURISDICTION OF THE ARMY WITHOUT USING THE STIPULATIONS REQUESTED BY THE ARMY; HOWEVER, BLM MAY WISH TO DISCUSS THE USE OF ANY OTHER STIPULATION PROPOSED BY AN INSTALLATION PRIOR TO LEASE ISSUANCE. THE STIPULATIONS HEREIN ARE MERELY SUGGESTED AND MAY BE REWORDED BY THE MACOM OR DELEGATEE, EXCEPT CONDITIONS NO. 13, 14, AND 15, WHICH MAY ONLY BE CHANGED WITH THE APPROVAL OF DAEN-REM, WASHINGTON, D.C. 20314-1000.

NOTE THAT INSTRUCTIONS TO THE INSTALLATION ARE GIVEN BELOW IN CAPITAL LETTERS AND SHOULD BE OMITTED FROM THE FINAL SET OF STIPULATIONS THE ARMY FURNISHES TO THE BUREAU OF LAND MANAGEMENT.

It is understood by all parties that these stipulations may be waived or modified, only upon the written concurrence of the installation commander (hereinafter Commander) and the written approval of BLM's authorized representative.

1. The Lessee understands that any lessee activity on the leased lands requires prior approval of the BLM, and that BLM approval requires the concurrence of the Commander or authorized representative on necessary operational requirements. Requirements which may be imposed include but are not limited to prohibitions or specifications on: (USE FOR THOSE LANDS THAT ARE ESSENTIALLY OPENED TO LEASE ACTIVITIES SUBJECT TO OPERATIONAL MODIFICATIONS.).

a. Access (e.g., time of year, gates, roads, construction, maintenance, pipelines, vegetation disposal);

b. Exploration activities;

c. Location, design, and timing of construction of drilling, collection, and storage facilities (e.g., burial of flow lines);

d. Use and protection of installation water supply (e.g., water quality testing);

e. Protection of the environment (e.g., hazardous waste areas, endangered species, erosion control, pollution prevention) and protection of objects of historic and scientific significance;

f. Safety and fire protection measures (e.g., use of explosives, safe working distances from ammunition and explosives, construction and maintenance of firebreaks, development of contingency plans in the event of danger to persons or property, posting of signs);

Appendix 5, Page 2

### **H-3101-1 - ISSUANCE OF LEASES**

g. Use of communication and transportation systems;

h. Installation security (e.g., authorized operating hours, worker identification);

i. Management of production area (e.g., size, fencing, gates, cattleguards, interim revegetation);

j. Reclamation measures; or

k. Attendance at meetings (e.g., preoperations conference, postoperations conference).

Compliance with these requirements will be at no cost to the United States. The Commander for the purpose of this lease is Commander , and the District Engineer is the District Engineer .

2. The Lessee may only occupy the surface of the lands identified on the attached map, Exhibit , (USE WHEN SURFACE OCCUPANCY IS CONTEMPLATED. EXPECTED EXCLUSIONS OF MORE THAN 40 ACRES FROM SURFACE OCCUPANCY SHOULD BE INDICATED.).

**OR** 2. The Lessee shall not occupy the surface of the leased lands for any purpose, except for geophysical exploration. (USE ONLY WHEN DENIAL OF SURFACE OCCUPANCY IS CONTEMPLATED.)

3. The Lessee will make every effort to locate pipeline and access routes in existing utility and road corridors. The Lessee will furnish as-built drawings of completed pipelines at a scale and detail specified by the Commander.

4. The Lessee in accepting this lease understands that the leased lands are part of a military installation. Mineral exploration and development in any restricted impact areas or in areas involving ammunition or explosives is prohibited; however, these lands may be explored and produced by directional drilling at a safe distance from outside the areas as prescribed by Department of Defense (DOD) and Army regulations. Furthermore, the Lessee understands that future increased production, testing, or storage of ammunition or explosives may further restrict the surface area available for lease operations. Safe distances from ammunition and explosive facilities are based on the quantity and type of explosive present or authorized and the proposed use (e.g., above or below ground, continuous or temporary presence of personnel). The Lessee may obtain pertinent information on this subject from the installation safety office. (EXPECTED SETBACKS OF MORE THAN 500 FEET AND EXCLUSIONS FROM SURFACE OCCUPANCY OF MORE THAN 40 ACRES SHOULD BE INDICATED ON MAPS.)

Appendix 5, Page 3

### **H-3101-1 - ISSUANCE OF LEASES**

5. Before beginning any approved operations in the leased area, the Lessee must consult with third parties authorized to use real estate in the leased area and must document in any proposals for development the manner in which consideration is being given to programs for which third parties have contractual rights and/or responsibility. The Lessee may consult the records of the District Engineer to determine what real estate interests have been granted to third parties on the leased lands. On the request of the BLM District Manager, the Commander may seek to resolve disputes between the Lessee or operator and third parties if they cannot reach agreement. Resolutions will be coordinated with contracting officers or representatives of all parties involved. The Lessee shall hold the United States harmless for claims by such third parties arising from the Lessee's activities, including damage to pasture and cropland capabilities.

6. Merchantable timber cleared from roads, pipeline rights-of-way, or drill sites will be disposed of in accordance with the Commander's instructions.

7. The Lessee shall bear all costs of the following:

a. Increased Government costs for its projects which are incurred by reason of the Lessee's activity on the leased premises. Such costs will be paid on a one time basis as a condition of approval of proposed operations.

b. Any Department of the Army costs to administer and ensure lease compliance not otherwise funded by the Congress.

c. The Lessee's share of road and bridge maintenance costs for use of installation roads and bridges in accordance with a maintenance agreement. In calculating such costs, the drilling and production area, pipeline rights-of-way, lengths of roads and bridges, and so forth will be considered. Payments shall be made in advance.

d. Repair or restoration for damages or degradation of land or facilities, including that caused by subsidence and pollutant spills, resulting from the Lessee's activities. Where conditions of urgency exist as determined by the Commander and time is of the essence, the Lessee shall repair damages or degradation in a timely fashion in the manner specified by the Commander without awaiting confirmation from BLM. The Commander shall subsequently confirm oral orders to the Lessee or operator in writing. If the Lessee or operator cannot or will not comply, the Commander may act, and the Lessee shall be liable for reimbursement to the Army for all damages and costs of such action, including administrative costs and any surcharges that may be deemed appropriate.

8. The Lessee shall not pollute the air, ground, or water (including ground water) or create a public nuisance.

a. Before beginning operations, the Lessee shall retain a local agent who may be served notice on these matters and

who shall notify the Commander immediately of spills, or other unexpected threats or hazards to the environment.

Appendix 5, Page 4

### **H-3101-1 - ISSUANCE OF LEASES**

b. The Lessee shall hold the United States harmless for any claim, including equitable claims, court, or legal expenses incurred by the United States, and fines or penalties imposed upon the United States which are related to unlawful pollution arising from the Lessee's use of the property.

9. The United States reserves the option to purchase up to percent of the natural gas or oil produced or refined at the price defined below under a utility service contract to be negotiated prior to the exercise of this right in accordance with present or future DOD and Army regulations. The Lessee or operator shall include this paragraph in any contract or sale of natural gas or oil to other parties.

a. The Lessee or operator shall have 4 months from the date it receives a notice from the Commander or the authorized representative electing to exercise this option, in which to negotiate the specific terms of any sale and begin delivery of the production. Except during mobilization or surge periods, the Commander or the authorized representative shall have the right to change its election under this option no more often than one time every 12 months.

b. The price to the United States shall be the lowest price paid by the wholesale buyer in the area; otherwise, standards appraisal methods will be used. In the case of oil production, if the Lessee contracts for the sale of its share of any oil production or enters into a processing agreement whereby the Lessee receives finished products in lieu of crude oil, the Lessee shall include the United States in any such contract under the same terms as the Lessee may negotiate for its own account. In all cases, the Lessee shall bear all costs on a nonreimbursable basis associated with constructing and maintaining such facilities (including meters) during the producing life of the well and with salvaging such facilities when production is ended.

c. Natural gas shall be dried or processed as necessary and shall be delivered in a condition ready for use in a natural gas system. The Lessee or operator shall arrange for equivalent delivery or construct a complete automatic gas supply system from the well to the existing installation gas system according to a Commander-approved plan. A complete pipeline includes all necessary piping, valves, meters, regulators, fittings, compressors, and odorizers. The Lessee shall be responsible for and bear all costs without further reimbursement for the exercise of this option including the costs of refining, processing, and delivering the natural gas to the installation or equivalent delivery of natural gas produced elsewhere as prescribed by the Commander or the authorized representative;

d. If exercise of this option involves more than one lessee or operator, the Lessee or operator agrees to cooperate with the others in scheduling production, constructing pipelines from wells or gathering points to the installation distribution system, sharing expenses, and other matters to assure a timely and continuous fuel supply to the United States.

Appendix 5, Page 5

### **H-3101-1 - ISSUANCE OF LEASES**

e. The Lessee or operator shall routinely inspect and calibrate equipment involved with the exercise of this option with installation representatives. The Commander may require the Lessee at least annually to engage an independent party acceptable to the Commander to test meters for accuracy and to furnish written findings to the Commander.

10. Notwithstanding any other stipulation, the United States and its officers, agents, servants, and employees ("the released parties") shall not be responsible for damages to property, injuries to persons, or any other cause of action ("released actions") which may arise from or be incident to this lease or the Lessee's use and occupation of the

leased premises. Released action include, without limitation, damage to the Lessee's property, injury to the Lessee's person, or other cause of action of the Lessee, or such damage, injury, or other cause of action of the Lessee's officers, agents, servants, employees, invitees of any of these, or anyone else otherwise on or off said premises incident to the lease. Released actions include any actions arising from flooding of the lease premises. The Lessee shall hold harmless and indemnify the released parties for released actions which may arise from or be incident to this lease or the Lessee's use or occupation of the leased premises.

11. The Lessor's rights described in the printed leased form include the rights of the Department of the Army.

12. (TRAINING INSTALLATIONS ONLY) The Lessee shall furnish the Commander a point of contact and back-up point of contact to whom evacuation orders can be issued. The Lessee will immediately advise the Commander upon any change in these points of contact.

13. The Secretary of the Army or designee reserves the right to require cessation of operations if a national emergency arises or if the Army needs the leased premises for a mission incompatible with lease operations. On approval from higher authority, the Commander will give the Lessee written notice or, if time permits, request the BLM to give notice of the required cessation. The Lessee understands the lease rights granted by this instrument do not include the period of any such cessations and the United States has no obligation to compensate the Lessee for damages (including contractual losses) resulting from the exercise of this stipulation. The Lessee shall include this stipulation in contracts with third parties to supply oil and gas. This stipulation shall not affect the Lessee's right to seek suspension of the lease term from the BLM. Whether or not a suspension is granted will have no effect on cessation of operations as stipulated herein.

14. If the Commander or the authorized representative discovers an imminent danger to safety or security which allows no time to consult the BLM, that person may order such activities stopped immediately. The authorized officer of the BLM shall review the order and determine the need for further remedial action.

15. If military contamination is found in the operating area, the operator shall immediately stop work, leave the area, notify the Commander, and shall not return until the Commander advises that it is safe to return.

Index, Page 1

## **H-3101-1 - ISSUANCE OF LEASES**

### Index by Keywords

#### Page

Accounting Advice (Lease Modification).....	17
Accounting Advice (Private Lease).....	21
Acreage Chargeability.....	12
Acreage Committed to Unit Not Chargeable.....	13
Acreage Limitations.....	12
Acreage Showing Required (Acreage Limitations).....	14
Additional Time Allowed for Divestiture (Excess Acreage).....	14
Arctic National Wildlife Refuge.....	2



Army Department Leasing Provisions and Standard List of Stipulations.....	29
Automated Notation (Amendment Due to Survey/Resurvey).....	17
Automated Notation (Joinder Waived).....	15
Automated Notation (Private Lease Established).....	21
Automated Notation (Private Lease Initiated).....	20
Automated Notation (Transfer of Jurisdiction from BLM).....	10
BLM/DOI Agency Stipulations Appealable to IBLA.....	23
Cancellation of Excess Acreage.....	14
Central Arctic Area - ANILCA Section 1001 Area.....	2
Change in LLD and/or Acreage (Lease Modification).....	16
Check for Production on Lease (Private Lease).....	20
Commitment to Unit Plan Dominates Over Commitment to CA.....	14
Confirm Type of Patent (Surface Owned by State/Charitable Organization)....	7
Coordination With Bureau of Reclamation.....	27
Coordination With Department of Defense.....	28
Coordination With Fish and Wildlife Service.....	28
Coordination With Forest Service.....	26
Coordination With National Park Service.....	27
Coordination With Other SMA's.....	26
Copy of Notice to SMA and Field Office Operations (Private Lease).....	20
DOD Provides Environmental Information Available.....	29
Effects of Injunction Orders/Court Decisions.....	3
Excess Acreage Due to Merger.....	14
Excess Acreage Due to Partial or Total Elimination from Unit.....	14
Exchanged Lands With Federal Leases.....	9
Federal Minerals Under State or Charitable Organization Surface.....	7
Forest Service Review of Sale Notice Prior to Official Posting.....	27

Forms Deemed Obsolete.....	11
Fractional Interest Chargeability.....	13
Future Interest Lease Acreage Not Chargeable Until Minerals Vest in the United States.....	12
Incorporated Areas.....	1
Indian Lands.....	1
Information Notices.....	24
Issuance of Leases.....	11
Joinder Evidence Required.....	15
Joinder Not Able to be Obtained.....	15
Index, Page 2	

### **H-3101-1 - ISSUANCE OF LEASES**

Page

Lands Eligible and Available for Leasing.....	1
Lands Not Available for Leasing.....	1
Lands Withdrawn and Set Aside for Specific Purposes.....	4
Lands Withdrawn for Use by Another Agency.....	4
Lease Form.....	11
Lease Form Updates - Distribution and Use.....	11
Lease Modification.....	16
Lease Offers Not Chargeable.....	12
Lease Stipulations.....	23
Maximum Acreage Limitation for Public Domain Separate from Acquired Land Lease Acreage Limitation.....	12
Military Lands Review for Compatibility of Oil and Gas Development.....	28
Modification of Lease Due to Resurvey.....	16
National Park System Lands Not Available Except for Drainage Cases and	

Certain Other Areas.....	28
National Park System Units.....	1
National Petroleum Reserve in Alaska.....	2
National Wildlife Refuges.....	3
Naval Petroleum/Oil Shale Reserves.....	2
1930 Act Leases Not Chargeable.....	12
Non-BLM/DOI Agency Stipulations Appealable to That SMA.....	23
Notification of Leasing Actions to Forest Service.....	27
Notify MMS if Lease in Producing Status (Private Lease).....	21
Notify Private Lessee of Federal Lease Serial Number .....	20
Other Patented Lands With Mineral Estates Reserved by Statute.....	6
Partnership Chargeability.....	13
Patentee Objection to Leasing Reviewed by Field Office.....	8
Prepare Case File and Serialize (Private Lease).....	19
Private Leases.....	19
Process Lease Actions Until NORA Published for Exchange Action.....	9
Process Lease Action (Surface Owned by State/Charitable Organization).....	8
Receive Notification from Acquiring Agency (Private Lease).....	19
Records Notation (Lease Modification).....	18
Records Notation (Private Lease).....	20
Recreation and Public Purposes Lands.....	5
Reject Offer (Surface Owned by State/Charitable Organization).....	8
Report to Adjudication (Surface Owned by State/Charitable Organization)....	8
Request Field Operations Staff Review (Surface Owned by State/Charitable Organization).....	7
Request Patentee Report (Surface Owned by State/Charitable Organization)...	7
Restrictive Stipulations of Patentee Reviewed by Field Office.....	8

Review Lease and/or Assignment Documents (Private Lease).....	19
Review Patentee Response (Surface Owned by State/Charitable Organization)..	7
RP&P Lands Patented to a State or Charitable Organization.....	5
Segregate Unit Lands in Competitive Parcel Prior to Lease Issuance.....	15
Segregate Unit Lands in Noncompetitive Lease Offer.....	15
Severed Operating Rights Interests in Acreage Chargeable.....	13
Index, Page 3	

### **H-3101-1 - ISSUANCE OF LEASES**

<u>Page</u>	
SMA Must Transfer Private Lease to BLM to Administer.....	19
Split Estate Lands.....	25
Standard Lease Terms and Conditions.....	23
Stipulation Documentation in Lease File.....	24
Stockholder Acreage Chargeability.....	13
Supplemental Agreements Between BLM State Offices and SMA's.....	30
Surface Owner Refusal for Access (Split Estate Lands).....	25
Surface Use Rights.....	23
Suspend Lease Action on Lands Pending Application for Closure to Mineral Leasing.....	9
Suspend Lease Actions on Proposed Withdrawal Areas.....	9
Transfer of Jurisdiction from BLM to Another Federal Agency.....	10
Undivided Interest Chargeability.....	13
Wild and Scenic Rivers.....	3
Wilderness Areas.....	2
Wilderness Study Areas.....	2
Withdrawals Not Closed to Leasing.....	4