



January 21, 2014

Submitted via email to: blm_nm_lcdo_comments@blm.gov

Ms. Jennifer Montoya
RMP/EIS Team Lead, Las Cruces District Office
Bureau of Land Management
1800 Marquess Street
Las Cruces, NM 88005

RE: Western Energy Alliance Scoping Comments for the Supplement to the Tri-County Draft Resource Management Plan/Environmental Impact Statement (DRMP/EIS)

Dear Ms. Montoya:

Western Energy Alliance strongly supports public lands management based on multiple use and sustained yield. We urge BLM to move forward with its supplement to the Tri-County Draft Resource Management Plan (DRMP) with the acknowledgment that domestic oil and natural gas resource development is a legitimate use of public lands, and can and has been done in an environmentally sensitive manner.

Western Energy Alliance represents over 450 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in New Mexico and across the West. Our members have a vested interest in decisions made by BLM for the Tri-County DRMP planning area (Sierra, Otero, and Doña Ana Counties) that affect valid existing oil and gas lease rights, as well as future exploration and development activities.

Background

In 2005, BLM attempted to amend the existing Resource Management Plan (RMP) to address fluid minerals, but challenges in the New Mexico Federal District Court and Tenth Circuit Court of Appeals resulted in decisions to set aside the amendment. BLM determined to move forward with non-fluid mineral resource management planning, and defer oil and gas leasing within the planning area until the Tri-County RMP is complete, with the intent to amend the RMP for fluid minerals at a later date after gathering further oil and natural gas related information.

The current scoping period is part of this effort and seeks to identify issues to include in subsequent oil and natural gas environmental analysis. Preliminary issues identified by BLM include: directional drilling and hydraulic fracturing, air quality impacts, water quality and quantity impacts, wildlife habitat fragmentation, and management of lands with wilderness characteristics. Our comments will address these issues, as well as additional analysis that we feel BLM must take into consideration.

Directional and Horizontal Drilling

Directional and horizontal drilling technology has contributed greatly to industry's ability to minimize its footprint and mitigate impacts on public lands by allowing multiple wells from a single pad, enabling economic development of certain geologic strata, and enabling access to resources from adjacent acreage on which sensitive resources are not present. As BLM moves forward with its environmental analysis, we urge consideration of these technological capabilities when determining which acreage will be open for leasing. Resources that historically may not have been accessible without the risk of significant surface impact or could not be economically developed are often now viable development options.

However, while these technologies are often an option, we remind BLM that they are not always appropriate in every circumstance, as their suitability is dictated by geologic considerations and surface siting considerations. Not all geologic formations can be reached effectively with horizontal or directional drilling. Surface analysis may determine that a multi-well pad is not necessarily the least impactful. BLM therefore cannot assume that horizontal or directional drilling is always an option and impose highly restrictive stipulations under the assumption that the resource can always be reached peripherally. A blanket requirement could unnecessarily preclude development of significant oil and natural gas resources.

Hydraulic Fracturing

Hydraulic fracturing or "fracking" has been a technology utilized by the oil and natural gas industry for many decades. Fracking is necessary to recover oil and natural gas resources from the "tight" formations found in the planning area, i.e., the reservoir formation is of low permeability and the resource does not economically flow into the well bore without additional stimulation.

The use of hydraulic fracturing has undergone significant scrutiny, and has a stellar safety record. Several studies and data from over 1.2 million fracked wells have produced no evidence that the process of fracking has contaminated groundwater resources, and the risk of contamination in the future is likewise low. The key to safe fracking is wellbore integrity and construction to ensure the contents of wells cannot reach underground aquifers. In addition, the distance between aquifers and the hydrocarbon-bearing formations that are fracked prevent fractures from migrating to underground water resources.

New Mexico has been regulating well construction for decades without a documented case of contamination from fracking. In addition, the state strengthened its regulations in February, 2012. Therefore, BLM should recognize the state's exemplary safety record of fracking in the supplement and not limit its use due to unfounded concerns.

Water Quality and Quantity

Extreme care is taken to ensure that groundwater resources are protected, as several layers of steel and cement seal the wellbore from groundwater zones and leakage of contaminants. Thousands of feet of effectively impermeable layers of geologic strata prevent any potential contaminants from migrating to groundwater zones.

Handling of produced water, frack fluids and other liquids is regulated by the state and EPA through the Clean Water Act, the Safe Drinking Water Act, and the Spill Prevention, Control and Countermeasures (SPCC) rule. BLM should recognize the effectiveness of the existing regulatory structure and how it effectively minimizes the risk of spills and other impacts to surface water.

In the arid West, water is a precious resource, and innovative technologies are used to ensure that a minimal amount is used during oil and natural gas operations. Companies are continually innovating to reduce water use and to develop and implement technologies to treat and reuse drilling fluids, frack fluids and produced water. However, each field and project is different, and BLM should refrain from prescribing particular technologies in the supplement. Rather, BLM should work with operators at the project phase to implement techniques that are economically and technically feasible for each situation.

Air Quality

BLM has stated its intention to analyze air quality impacts in the supplement to the DRMP. We remind the agency that under the Clean Air Act (CAA) the New Mexico Environment Department has delegated authority from the Environmental Protection Agency (EPA) to regulate air quality and ensure that oil and natural gas operations meet health standards. Air emissions are heavily regulated and each well must meet stringent permitting requirements. The air quality analysis in the supplement should account for the requirements imposed by the state and EPA, including recent regulations requiring reduced emissions completions technology that captures the vast majority of ozone precursors and methane. BLM should also not use the NEPA process to attempt to impose new regulatory requirements which it lacks the jurisdiction to impose.

Wildlife Habitat

In assessing the potential impacts to wildlife, BLM must consult with the New Mexico Department of Game and Fish to ensure that good, up-to-date wildlife and habitat data are used, and that state experts are involved in collaborative consultation, rather than imposing blanket restrictions in the EIS supplement. Wildlife management and mitigation strategies in the supplement should be consistent with Department of Game and Fish and

New Mexico Oil Conservation Division regulations to avoid superimposing redundant requirements onto an area.

Lands with Wilderness Characteristics

In many instances, BLM has inventoried lands as having wilderness characteristics in circumstances where the lands lie adjacent to state and private lands, or contain existing federal oil and gas leases. Management prescriptions that prevent development in lands with wilderness characteristics can put off limits state and private minerals because of access restrictions. While resources may be accessed through the use of directional drilling in certain circumstances, BLM should not assume it is a panacea. BLM should carefully consider the impacts to oil and natural gas resources when designating LCA restrictions in the supplement.

BLM should also be cognizant of the fact that oil and natural gas development and production leaves a small and temporary impact on the land. With modern reclamation, lands are returned to such a pristine state that lands with prior or even active oil and natural gas wells are regularly proposed for wilderness protection. This demonstrates that we can both develop domestic energy and protect the landscape; these are not mutually exclusive uses of the land, and we urge BLM to take this into account when conducting its environmental analysis.

Valid Existing Rights

We strongly urge BLM to explicitly recognize valid existing rights as it moves forward with its analysis. The Federal Land Policy and Management Act (FLPMA), Mineral Leasing Act (MLA), and BLM's own Planning Handbook all expressly limit the agency's authority to impose mitigation measures that would exceed the terms and conditions of previously issued leases. Operators retain the right to develop their leases in accordance with the terms under which they were issued, and BLM must ensure that no proposed management would infringe on those rights.

Socio-Economic Considerations

Domestic oil and natural gas development is a vital component in state and local economies throughout the West, provides needed revenues to local, state and federal governments, and is key to establishing American energy security. According to our analysis¹, in 2012 oil and natural gas development was responsible for over 24,000 jobs, representing nearly \$1.5 billion in wages and \$4.4 billion in economic output in New Mexico. In 2012, production in New Mexico generated \$942 million in state severance tax and royalty revenues, and \$919 million in federal revenues². These funds are utilized to

¹ [Western Oil and Natural Gas Employs America](#), Western Energy Alliance, June, 2012

² [2013 Dashboard, Tax and Royalty Revenue](#), Western Energy Alliance, July 2013

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build and maintain important infrastructure, fund education, and other vital services for society. When conducting its analysis, we strongly urge BLM to include a comprehensive analysis of the socio-economic impacts of energy development.

We thank BLM for the opportunity to provide feedback for the supplement to the Tri-County DRMP during this scoping process, and should you have any questions, please do not hesitate to contact our lead public lands analyst, Brian Meinhart, bmeinhart@westernenergyalliance.org (303) 623-0987.

Sincerely,



Kathleen M. Sgamma
Vice President of Government & Public Affairs