



## Master Leasing Plans: Eliminating the False Choice Between Energy & Conservation

Why President Obama Must Implement a 'Smart from the Start' Approach to Oil and Gas Development on America's Public Lands and Never Look Back

November 2013

## Introduction:

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In the American West, public lands drive local economies and local communities, supporting a diversity of cultural values and economic sectors. Extractive activities, like oil and gas development, generate substantial revenues from public resources, while outfitters, restaurants, hotels and others in the recreation and tourism industry provide many western communities with sustained

sources of income. Just as oil and gas development provides employment for men and women in the West, so do hunting, fishing, camping, mountain biking, hiking and general tourism, which create jobs, support local businesses, and help local communities diversify their economic portfolio. Striking the right balance among all these varying interests is critical.

Much as local governments seek to manage competing interests and uses through zoning, the U.S. Bureau of Land Management (BLM) has developed a similar concept—an innovative planning tool called a Master Leasing Plan (MLP)—to avoid and minimize conflicts between oil and gas activity and recreation, water, air, cultural and wildlife values.

These Master Leasing Plans hold great promise for the controversy-plagued agency, but the BLM has yet to put them to use. Former Interior Secretary Ken Salazar announced these changes in 2010, and current Interior Secretary Sally Jewell's speech at the National Press Club in October 2013 indicated that she strongly supports the tool.

### **Now we need action.**

In recent years, the boom in oil and gas development across the country has led to an increased need to ensure this development is balanced with the other important uses of the lands. When the scales are tipped in favor of one industry above all others, conflict and controversy ensue – costing all parties millions of dollars in legal fees and delays. This seems to have happened time and time

### **Spurring the Need for Reform: The 77 Leases Controversy**

In 2008, in the final days of the Bush Administration, the BLM announced it would auction off a number of highly sensitive parcels of land near the iconic Arches and Canyonlands National Parks in Moab, Utah for oil and gas leasing. The announcement spurred immediate reaction from the local community—many of whom depend directly on these parks and the world-class recreational areas found on BLM lands for their economic livelihoods.

Some of these parcels were in full view from Arches and Canyonlands National Parks, and others would have required road construction directly on top of numerous recreation trails that are popular destinations for the local outfitting and tourism businesses. The leases drew opposition from the National Park Service as well, concerned that the leases would compromise not only the views of the famous red rock formations that make Arches unique, but also the park's water and air resources.

The controversy sparked national media attention, and this lease sale soon became a "poster child" for how broken the BLM's leasing system had become. This sale also resulted in a public outcry across the west to restore balance—to ensure that oil and gas development did not trump other valuable uses of the public lands.

In May 2010, the BLM answered these calls and announced widespread reforms to the oil and gas program. The intent of these reforms is to modernize the leasing process by employing a "smart from the start" approach to leasing.

MLPs are a cornerstone of these reforms. By evaluating leasing at a landscape-level rather than on lease-by-lease basis, MLPs should provide a more effective, efficient and balanced approach to energy development in the West, while also protecting other values and industries.



again over the past decade and across the West as reckless siting of development has placed national parks, wildlife habitat, recreation areas, precious air and water resources and local communities and economies at risk. Failing to address potential conflicts up-front in the planning process has also caused unnecessary delays in oil and gas development. This has only served to deepen the conflict between stakeholders whose livelihoods all rely on our public lands.

MLPs provide a smoother path forward for both conservation and energy development in Western landscapes. Oil and gas companies and conservation/recreation advocates both stand to achieve material benefits from the implementation of these commonsense reforms. Unfortunately, many BLM state and field offices remain either confused about this innovative tool, or simply slow to adopt a new process. Regardless of the reason, Secretary Jewell can encourage the agency to use MLPs to cut through the red tape and avoid many of the conflicts that typically delay oil and gas proposals on public lands. At the same time, the BLM can ensure the range of other resources on public lands—national parks, agriculture, recreational activities, clean air and water and wildlife habitat among others — aren't put at risk.

#### **Colorado: Outdated Land Use Plans Lead to Confrontation**

Perhaps nowhere else have the problems associated with out-of-date Resource Management Plans (RMPs) been more evident than in several locations across Colorado. Updating RMPs is critical, because the development of new technologies has allowed the industry to expand into more and more areas, including near communities, atop farm and ranchland and on the doorsteps of America's national parks.

For example, in South Park, Colorado, broad leasing proposals based on out of date plans have drawn concern from local leaders, including all Park County commissioners, as well as regional interests because of the leasing's proximity to key Denver water sources.

In northwest Colorado, near Dinosaur National Monument, a series of recent leasing proposals based on a plan that's over fifteen years old led to outcries of concern by former park rangers and the National Park Service. Several of the proposed leases were right next to the national monument's visitor's center and entrance road.

By preparing MLPs, the BLM can update older RMPs and ensure that the most current information and the concerns of local communities and other stakeholders are taken into account prior to new leasing. The BLM has wisely agreed to do just that for South Park and the area around Dinosaur.

## A Better System is Needed

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Oil and gas development on public lands is administered chiefly by the BLM, within the U.S. Department of the Interior. Under the Federal Land Policy and Management Act (FLPMA), the BLM's core mission is to manage for "multiple uses" and provide a "sustained yield" of resources from the public lands.<sup>1</sup> This mission involves an informed and careful balance of resources to ensure wildlife, recreation and other uses receive the same consideration

as oil and gas development, and that these lands are managed in a way to ensure our lands are protected now, and for future generations. Unfortunately, the BLM has struggled with this multiple use mandate.

Under the existing management system, the BLM prepares plans that open vast tracts of public land — millions of acres, in most cases — to leasing, with little or no guidance on where and when leasing should happen.

The leasing process then begins when oil and gas companies nominate land for an oil and gas lease auction. The BLM's approach has traditionally been to approve those nominations, unless protests or litigation halted the process. Seldom did the BLM prepare any additional analysis about the potential impacts of leasing, including when land use plans had become old and outdated. As a result, the BLM routinely sold leases in sensitive areas and without adequate protections for wildlife, water, recreation and other potentially affected values.<sup>2</sup>

Nor did the BLM typically provide the public with the opportunity to review and comment on proposed leases prior to auction. It was even difficult, if not impossible, for the public to obtain maps of the areas that industry had nominated for leasing. Thus, this system bred and perpetuated conflict, as the lack of a strategic approach to leasing caused the BLM to issue leases in areas where the public frequently had legitimate concerns. And because the system did not allow for meaningful public participation, the public's sole recourse was to file protests and litigation. This system was not only a disservice to the public, but it also harmed the interests of the industry, as leases and projects were regularly delayed by the conflicts.

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<sup>1</sup> 43 U.S.C. § 1732(a).

<sup>2</sup> See generally, GAO, BLM's Management of Protests to Its Lease Sales Needs Improvement (July 2010), available at <http://www.gao.gov/assets/310/308276.pdf>.

"The type of new, smart, balanced development is especially what we need in new frontiers like the Arctic, or in the development of Master Leasing Plans, or in places like the Bakken region of North Dakota where we're experiencing a major energy boom. ...By understanding our landscapes and guiding development to areas of highest resource value and lowest environmental concern we can reduce the likelihood of conflict. We can help businesses drive a more predictable return on investment and that's what they're looking for."

*Interior Secretary Sally Jewell, National Press Club, October 31, 2013*

# Master Leasing Plans: Fixing a Broken System

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The continuing conflicts between recreation, conservation and oil and gas development on America’s public lands underscore the need to implement this common-sense tool. MLPs are a “smart from the start” approach to oil and gas development that help the BLM pinpoint—by planning ahead and identifying conflicts in advance of proposed leasing and drilling—lands most suited to leasing and development and those areas too special or otherwise economically valuable to drill (i.e. mountain-biking areas popular with tourists). By developing these more detailed plans ahead of time, the BLM can better balance the multiple uses on our public lands, reduce conflict and protests and provide greater certainty to the oil and gas industry. In this section, we address what MLPs are, how they differ from the more common Resource Management Plans and how their use will help the BLM reduce red tape while conserving our heritage.

## What are Master Leasing Plans?

The BLM introduced MLPs in May 2010 as part of comprehensive reforms to the oil and gas leasing program. Three years later, the BLM issued additional guidance, which reiterates the importance of MLPs and establishes a detailed process and set of requirements for completing MLPs. That guidance defines MLPs as:

“A plan that includes analysis of a distinct geographic area that takes a more closely-focused look at RMP decisions pertaining to leasing and post-leasing development of the area. The MLP also establishes a guiding framework for the development of the area and provides a vision for how future development will proceed.”<sup>3</sup>

Thus, MLPs are driven by the need to develop and implement a “vision” and “framework” for oil and gas activity within a “distinct geographic area,” one where potential oil and gas activity could

### MLP’s: Opportunities for Innovative Collaboration

Nestled amongst the expanding development of northwestern New Mexico overlying the Mancos shale formation is Chaco Culture National Historical Park. Along with Mesa Verde National Park which is also seeing threats from oil and gas development, Chaco is an ancient and sacred home of the Ancestral Pueblo culture. Chaco Canyon also became the newest international night sky park, drawing visitors and astronomers from around the world.

After early contentions over the BLM not seeking tribal input and offering leases that were as close as a quarter of a mile from the park, among other conflicts, the National Trust for Historic Preservation and other groups proposed an MLP as a balanced solution to address those conflicts. As well, in what would be an innovative collaboration, the National Trust is exploring the idea of partnering with the BLM on the preparation of a cultural landscape study, which would map and identify key cultural sites around Chaco Canyon to avoid future conflicts.

This information would help the BLM identify where leasing can proceed without impacting important cultural sites and the national park. Because the BLM would not be undertaking this analysis on its own, it would save taxpayer dollars and BLM staff time. This public-private partnership approach can increase stake-holder input at the outset while decreasing the costs and time burdens thought to be associated with MLPs.

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<sup>3</sup> Chapter V of BLM’s Handbook on Planning for Fluid Mineral Resources, available at [http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information\\_Resources\\_Management/policy/blm\\_handbook.Par.73097.File.dat/Master%20Leasing%20Plans\\_Chapter%20V\\_.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/blm_handbook.Par.73097.File.dat/Master%20Leasing%20Plans_Chapter%20V_.pdf).



harm important public values, such as wildlife habitat, local recreation areas, watersheds and national parks.

MLPs address and resolve potential conflicts first by establishing “objectives” for key resources. For example, in areas where wildlife depends upon intact habitat, MLPs could establish specific percentages of habitat that should remain undisturbed. Once the appropriate resource “objectives” are identified, MLPs then establish “protection measures” to ensure that those “objectives” are met. Those measures include closing some areas to leasing (while allowing leasing to proceed in other areas) and evaluating unique and creative approaches to development, such as phasing in leasing and development, limiting road densities, setbacks from waterways and allowing existing leases to expire in sensitive areas.

MLPs and the associated resource “objectives” and “protection measures” are developed through the standard land use planning process. As a result, the BLM prepares a full environmental analysis for MLPs, complete with a range of alternatives and opportunities for public and stakeholder engagement.

## How do Master Leasing Plans differ from Resource Management Plans?

As opposed to analyzing projects only from a very broad Resource Management Plan (RMP) level, an MLP is specifically designed to account for and address the impacts of leasing, the point at which the BLM normally “irretrievably commits” areas to oil and gas development.<sup>4</sup> A tool that has been in use by the agency for years, RMPs offer a useful analysis of the lands and minerals under the jurisdiction of each BLM field office, but are infrequently updated, and often cover millions of acres with very general guidance to uses for those lands.

According to the BLM’s national office, MLPs are a “stepped-down leasing analysis” that “[a]nalyze in greater detail than the RMP the impacts of leasing and likely development.”<sup>5</sup> Additionally, MLPs apply to “a defined area” within a broad field office or planning area. RMPs apply to the entire jurisdiction of a field office, which can be several million acres in size. Thus, because of their focus on the impacts of oil and gas activity within a limited area, MLPs serve a distinct purpose from RMPs.

## How will Master Leasing Plans reduce red tape?

MLPs are designed to reduce red tape and allow the leasing and development process to proceed with fewer conflicts. This is one of the stated policy goals for the program:

“This Instruction Memorandum (IM) establishes a process for ensuring orderly, effective, timely, and environmentally responsible leasing of oil and gas resources on Federal lands. The leasing process established in this IM will create more certainty and predictability, protect multiple-use values when the Bureau of Land Management (BLM) makes leasing decisions, and provide for consideration of natural and cultural resources as well as meaningful public involvement.”<sup>6</sup>

Additionally, MLPs contain measures that are specifically designed to resolve potential conflicts before leasing and development are

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<sup>4</sup> New Mexico ex rel. Richardson v. BLM, 565 F.3d 683, 718 (10th Cir. 2009).

<sup>5</sup> [http://www.blm.gov/pgdata/etc/medialib/blm/wo/MINERALS\\_\\_REALTY\\_\\_AND\\_RESOURCE\\_PROTECTION\\_/energy/leasing\\_reform.Par.54947.File.dat/Leasing\\_Reform\\_05-11-2011.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/MINERALS__REALTY__AND_RESOURCE_PROTECTION_/energy/leasing_reform.Par.54947.File.dat/Leasing_Reform_05-11-2011.pdf)

<sup>6</sup> BLM Instruction Memorandum 2010-117, available at [http://www.blm.gov/wo/st/en/info/regulations/Instruction\\_Memos\\_and\\_Bulletins/national\\_instruction/2010/IM\\_2010-117.html](http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2010/IM_2010-117.html).



proposed. Because MLPs focus on ensuring that leasing and drilling take place in the right place, at the right time—so that air, water, wildlife, recreation and other resources are taken into account and fully protected—the BLM will be able to manage oil and gas activity more strategically, proactively direct development to the areas of lowest conflict and when development does occur in high conflict areas, then measures will already be in place to address those conflicts. This will prevent unnecessary controversy, reduce costly protests and litigation over proposed oil and gas activity and ultimately provide greater certainty for industry.

In addition to reducing red tape, MLPs should also save money and result in overall cost-savings to the federal government. First, because MLPs are often prepared through ongoing or previously scheduled planning processes, the BLM will not usually need to allocate additional resources to new planning processes for MLPs. This rationale is consistent with the BLM's own assessment of the budgetary impact of preparing MLPs: "This IM provides additional guidance for implementing the BLM Oil and Gas Leasing Reform, as directed in IM 2010-117 and, therefore, will not result in costs beyond those already anticipated for implementation of Leasing Reform."<sup>7</sup>

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<sup>7</sup> [http://www.blm.gov/wo/st/en/info/regulations/Instruction\\_Memos\\_and\\_Bulletins/national\\_instruction/2013/im\\_2013-101\\_\\_oil\\_and.html](http://www.blm.gov/wo/st/en/info/regulations/Instruction_Memos_and_Bulletins/national_instruction/2013/im_2013-101__oil_and.html)



Second, because robust outreach with public and stakeholders is a key part of MLPs, the BLM will have the opportunity to explore public-private partnerships, which can help defray certain preparation costs. For example, in response to recent leasing proposals, the BLM has received an MLP proposal for the area around New Mexico's Chaco Culture National Historical Park. In conjunction with that proposal, non-governmental groups have offered to provide financial assistance to prepare a cultural survey of the area. This would help the BLM identify (and avoid) specific areas of importance to Native American tribes when future leases are proposed. In other areas with high recreation activity, the BLM can work with local mountain biking clubs, fishing outfitters and similar stakeholders and rely on those users to identify key trail networks and high use areas through GIS or collaborative mapping technologies similar to those already employed by some U.S. Forest Service offices. These partnerships should further cut staff time, save money.

Finally, MLPs will result in the federal government devoting fewer resources to resolving protests and litigating oil and gas projects. **Under the leasing reforms, lease sale protests have already declined by almost 50 percent since 2008, due to the additional analysis and public engagement required by the reforms.<sup>8</sup> MLPs should further drive down protests and litigation by resolving conflicts before oil and gas activity is proposed.**

## **Master Leasing Plans Currently Under Preparation and Future Opportunities**

The BLM is now preparing MLPs in many areas in the West, yet none have so far been completed. This includes areas that are prized by hunters because of their high quality elk and mule deer habitat, areas that border and provide the scenic backdrop for national parks and areas that contain mountain biking trails, watersheds that safeguard clean drinking water to major metropolitan areas and recreation resources that are critical to the economies of nearby communities.

Additional MLPs have been proposed by the public, often with the support of local governments and other key stakeholders. Highlighted below are several areas where the BLM is currently preparing MLPs, as well as additional areas where the BLM has not

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<sup>8</sup> [http://www.blm.gov/pgdata/etc/medialib/blm/wo/MINERALS\\_\\_REALTY\\_\\_AND\\_RESOURCE\\_PROTECTION\\_/energy/oil\\_\\_\\_gas\\_statistics/data\\_sets.Par.69382.File.dat/Protest%20Table\\_4.12.pdf](http://www.blm.gov/pgdata/etc/medialib/blm/wo/MINERALS__REALTY__AND_RESOURCE_PROTECTION_/energy/oil___gas_statistics/data_sets.Par.69382.File.dat/Protest%20Table_4.12.pdf)

yet committed to considering MLPs, but should do so as a means of finally addressing long-standing controversies and conflicts around proposed leasing and development.

## Master Leasing Plans Currently Under Preparation

MLP	DESCRIPTION
<p>Beaver Rim MLP Lander Field Office, WY</p>	<p>Beaver Rim is situated east of the community of Lander, which has a thriving recreation economy. In recent years, Lander has attracted new businesses and a younger population because of the quality outdoor opportunities within the area. The Beaver Rim MLP will protect those opportunities, while also allowing leasing and drilling to move forward, since the proposed MLP does not actually close any lands to leasing. Instead, the MLP uses creative approaches to oil and gas activity, like phased leasing and limits on surface disturbance, to protect the area’s recreation, scenic, cultural and wildlife values. The BLM is preparing the Beaver Rim MLP as part of a revision to the Lander RMP. A final is due early 2013/late 2014.</p>
<p>Carter MLP Miles City Field Office, MT</p>	<p>The Carter area is located in southeastern Montana, and contains some of the best habitat for Greater sage-grouse in the state. In fact, the State of Montana has designated most of Carter as “core area” for sage-grouse. Additional resources include a Great blue heron rookery, big game crucial winter range and riparian areas. The BLM is preparing the Carter MLP as part of a revision to the Miles City RMP. A final is due in 2014.</p>
<p>Moab MLP Moab Field Office, UT</p>	<p>The Moab MLP proposal area surrounds Arches National Park, is contiguous to Canyonlands National Park and includes many areas proposed for leasing in 2008 (the “77 leases” controversy). These lands also provide important wildlife habitat for special status species, contain lands with wilderness characteristics and support numerous recreational pursuits, which fuel a robust local and regional tourist economy. The MLP will provide also the BLM with the opportunity to engage the National Park Service, and other stakeholders, that have raised concerns for the potential impacts of leasing. The BLM has completed “scoping” for the Moab MLP, and a draft is due in 2014.</p>

## Future Opportunities

POTENTIAL MLP	DESCRIPTION
<p>Dinosaur Lowlands White River Field Office, CO</p>	<p>In Colorado, the BLM has been slow to start using MLPs. Not surprisingly, Colorado is also where an overwhelming amount of conflict has recently bubbled up from proposed oil and gas leasing. To address these conflicts, the Colorado BLM is finally beginning to consider MLPs for several areas.</p> <p>One of those areas, Dinosaur Lowlands, borders Dinosaur National Monument. Proposed oil and gas activity around Dinosaur National Monument has been a source of conflict in Colorado and Utah for over a decade. While the Utah BLM has agreed to address that conflict through an MLP, the Colorado BLM not made a similar commitment, even though it is currently considering an industry proposal to drill over 20,000 new wells in the White River Field Office. Additionally, the field office has recently attempted to lease lands on the doorstep of the monument’s visitor center and entrance road, only pulling back after former park rangers and the National Park Service voiced concerns. By preparing an MLP for Dinosaur Lowlands, the BLM has the opportunity to finally put to rest the long-standing conflict with oil and gas activity around the monument.</p>
<p>North Park Kremmling Field Office, CO</p>	<p>North Park is a large basin in north-central Colorado that hosts the headwaters of the North Platte River, gold-medal trout fishing and a great deal of other wildlife habitat popular with hunters. The Niobrara formation borders North Park to the east, and drilling has already changed the experience of the area. Thus, an MLP would allow the BLM to manage future drilling in a way that recognizes the importance of hunting and fishing in North Park and protects key habitat areas.</p>
<p>South Park Royal Gorge Field Office, CO</p>	<p>South Park is another area in Colorado that could benefit from an MLP. Like North Park, the area is heavily used for hunting, tourism and recreation. Additionally, there has been strong local support for preparing an MLP for South Park, including from all three Republican County Commissioners. Leasing proposals in the area have also caught the attention of Denver and Aurora water providers, as South Park hosts key water sources for metro-Denver.</p>
<p>Chaco Canyon Farmington Field Office, NM</p>	<p>As highlighted above, Chaco Canyon, New Mexico, represents an ideal opportunity for an MLP. The existing Farmington RMP leaves approximately 93% of the field office open to oil and gas leasing, including most of the federal mineral estate around Chaco Canyon, while providing minimal protections for the park and the surrounding landscape, which encompasses numerous internationally and nationally significant cultural resources, including portions of the Chaco Culture World Heritage Site and several congressionally designated Chaco Culture Archaeological Protection Sites. Also, the BLM has included leases as close to a quarter of a mile from the park in several recent lease sales, only to defer them after tribes, the National Park Service and others raised concerns. An MLP would allow the BLM to restore balance to the management of the landscape surrounding Chaco Canyon, gather the necessary information about the cultural significance of the area and potential impacts on the national park, and ensure that the concerns of the National Park Service, tribes and other stakeholders are fully understood and addressed prior to more leasing (see sidebar on page X).</p>

## Conclusion

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There is a better way to permit energy development and maintain the values and quality of life supported by America's public lands. Master Leasing Plans are an easily implemented, innovative tool that allows the Bureau of Land Management to fulfill their multiple-use mandate.

The continuing controversies regarding management of a variety of resources in all of these areas underscore the need to make use of this important tool to identify places that are not suited to leasing and development, identify places that are most suited to leasing and development, and develop a landscape-level plan that will better balance competing uses while reducing conflict around responsible oil and gas leasing and development. For companies, this means that purchased leases won't run into unforeseen hornet's nests, increasing certainty, decreasing potential pitfalls during later stages of the process, making the approval process more efficient and avoiding reputation damaging conflicts with local communities and other land users.

MLPs reduce costly delays and conflicts over oil and gas decisions. Because MLPs are often prepared through ongoing or previously scheduled planning processes, the BLM will not usually need to allocate additional resources to new planning processes for MLPs. Lease sale protests have already declined due to the additional analysis and public engagement required by the leasing reforms. MLPs will only further reduce conflicts over proposed oil and gas leasing and development decisions. This will save the federal government money, as the Interior Department will need to devote fewer resources to resolving challenges to oil and gas decision and preparing additional analysis should those challenges prove successful. Additionally, MLPs will allow the industry to obtain leases and drilling permits in a more timely fashion, due to the reduction in delays.