

Colorado NTL-87-4

United States Department of the Interior
Colorado Bureau of Land Management

Notice to Lessee/Operators
of Onshore Federal and Indian Oil and Gas Leases
Within the Jurisdiction of the Colorado State Office

NTL-CO-87-4

Procedures for Concurrent Processing of Applications for
Permit to Drill, Sundry Notices, and Related Rights-of-Way

Background:

In order to provide improved coordination and expedite processing of the subject authorizations, the Bureau of Land Management (BLM) recently completed a comprehensive review of its policies and operating procedures. As a result of the review, current policies have been clarified and changed where necessary to improve the coordinated issuance of Mineral Leasing Act (MLA) and Federal Land Policy and Management Act (FLPMA) authorizations.

Lessees and operators should be aware of the following procedures:

General:

All production facilities (as defined in 43 CFR 2880.0-5) located on a lease or unit will be approved by an Application for Permit to Drill (APD) or Sundry Notice (SN) authorized pursuant to lease terms. Production facilities on lease (or unit) will not be authorized by a right-of-way to a third party. The APD will be accepted as a right-of-way application. An SN will also be accepted as a right-of-way application document. When a Notice of Staking (NOS) is submitted, it will be accepted as an incomplete right-of-way application which will be perfected by a subsequent APD or a separate right-of-way application, as appropriate (SF-299, Application for Transportation and Utility Systems and Facilities on Federal Lands). The information provided in the surface-use program submitted with the NOS and the subsequent APD or SN will be used in lieu of a plan of development. As with all rights-of-way applications, BLM may request from the applicant/operator whatever additional information is needed for a complete National Environmental Policy Act (NEPA) analysis and decision.

Upon receipt of an NOS, APD, or SN, the authorized officer shall determine whether a right-of-way is needed. It is the BLM's policy to

require a right-of-way for the following types of oil and gas facilities:

1. Facilities or portions thereof which lie outside of a lease or unit boundary,

2. That portion of the facility which occurs downstream from the sales (custody transfer) point (whether on or off lease or unit), or

3. A facility (other than a production facility) or portion thereof which is owned by any party other than the lessee or designated operator. Where the owner of a facility other than the lessee or designated operator informs the authorized officer that he is considered an entity of the leaseholder, entitled to lease rights, the authorized officer will:

a. Request the applicant to submit corporate documentation supporting the claim, and

b. Review and, if necessary, forward the documentation and the claim to the appropriate solicitor's office for a determination whether the applicant is an entity of the leaseholder entitled to lease authorization or a third party requiring a right-of-way. grant.

The following stipulation will be included in all future rights-of-way which authorize facilities downstream of the custody transfer or off-lease facilities that traverse lease or unit boundaries:

Boundary adjustments in (name or number of oil and gas unit or lease) will automatically amend this right-of-way. to include that portion of the facility no longer contained within the above described (lease/unit). In the event of an automatic amendment to this right-of-way grant, the prior on-lease/unit conditions of approval of this facility will not be affected even though they would now apply to facilities outside of the lease/unit as a result of a boundary adjustment. Rental fees, if appropriate, will be recalculated based on the conditions of this grant and the regulations in effect at the time of an automatic amendment.

For new rights-of-way issued in accordance with the above criteria, the appropriate rights-of-way. cost recovery fee determinations will be based on the extent of the off-lease rights-of-way needs. Cost recovery fees will not be assessed for processing applications to be authorized under lease terms.

Procedures to be followed will depend on the type of facility applied for and the application method used:

1. NOS Option:

The on-site predrill inspection for the NOS will examine the entire project without regard for the fact that two approval documents will be issued.

At the onsite predrill inspection, the applicant/bolder will be given the following materials:

a. A form 2800-14 (Right-of-Way/Temporary Use Permit) containing standard terms and conditions, and

b. Any special stipulations needed for environmental protection (as per Oil and Gas Order No.1) including a Notice to Proceed special stipulation, made part of the 2800-14, which states:

No surface disturbing activities shall take place on the subject right-of-way until the associated APD is approved. The holder will adhere to special stipulations in the Surface-Use Program of the approved APD, relevant to any right-of-way facilities.

c. A right-of-way cost recovery category and fee determination, form 1323-2 (Right-of-Way Cost Recovery Category and Fee Determination Record).

The applicant/operator can then submit to the BLM:

a. An APD with a completed surface program.

b. A signed form 2800-14 with the standard terms and conditions and any required special stipulations. This will fulfill the requirements of 43 CFR 2802.4(g) and 43 CFR 2882.3(g) relative to written acceptance of grant terms and conditions, and eliminate the need to offer the grant prior to approval.

c. The appropriate cost recovery fee.

With this information the BLM can conduct a NEPA analysis for the entire project. This analysis may result in the identification of any additional special stipulations for either on-lease or right-of-way facilities.

After the NEPA analysis, the authorized officer will issue one Decision Document approving or rejecting the APD and associated right-of-way.

Upon completion of the NEPA and decision making process, BLM will return to the applicant/holder the following:

a. An approved APD with surface-use plan which may include special stipulations relevant to the right-of-way.

b. An approved right-of-way grant complete with standard terms and conditions and the Notice to Proceed special stipulation requiring issuance of the approved APD prior to commencement of construction.

2. APD Option (when an on-site predrill inspection is conducted):

The on-site predrill inspection for the APD will evaluate and process the proposal without regard for the fact that two approval documents will be issued. A form 2800-14 containing standard terms and conditions and the Notice to Proceed special stipulations will be given to the applicant/operator at the on-site predrill inspection conducted for the APD. Any special stipulations needed for environmental

protection will be developed and discussed with the applicant/operator at that time.

During the on-site predrill inspection, BLM will make a cost recovery category and fee determination to cover off-lease facilities to be authorized by a right-of-way. grant. The applicant will be furnished the determination at the on-site predrill inspection; this decision serves as the official notification of cost recovery determination.

The applicant/operator should submit the signed form 2800-14 with stipulations along with cost recovery fees and supplemental information required as a result of the on-site predrill inspection.

BLM will process the combined applications concurrently. The completed form 2800-14 signed by the applicant-ant/operator will fulfill the requirements of 43 CFR 2802.4(g) and 43 CFR 2882.3(1) relative to written acceptance of grant terms and conditions and allow the right-of-way grant and APD to be issued simultaneously.

3. APD Option (when on-site predrill inspection is not conducted or operator does not attend on-site):

If the operator is not present at the on-site predrill inspection or if an on-site predrill inspection is not conducted, the authorized officer will expeditiously notify the applicant/operator of the required cost recovery fee needed to process the right-of-way. application. BLM will continue to process the APD, but no work on the right-of-way application will be done until the appropriate cost recovery fees have been paid. After payment of the appropriate cost recovery fees, BLM will complete the NEPA analysis and decision process for the entire proposal. The grant offer, complete with all stipulations and rental determinations, will be sent to the applicant/operator. A cover letter will notify the applicant/operator of the current status of the associated APD and explain that, upon receipt of written acceptance of the right-of-way. grant (complete with all terms and conditions) as well as resolution of all APD-related issues, the APD and right-of-way will be simultaneously approved.

4. Surface-Use SN:

SNs received in lieu of an SF-299 will be processed in the same manner as the APDs described above.

APD and Surface-Use SN (No Right-of-Way Required):

APDs or surface-use SNs which do not require authorization of off-lease facilities will be processed in accordance with Onshore Oil and Gas Order No. 1. The following stipulation will be included in all future APD and surface-use SN authorizations:

If at any time the facilities located on public lands authorized by the terms of the lease are no longer, included in the lease (due to a contraction in the unit or other lease or unit boundary change), the BLM will process a change in authorization to the appropriate statute. The authorization will be subject to appropriate rental or other financial obligation determined by the authorized officer.

Unit Contraction or Lease Boundary Changes:

Facilities, originally authorized by, but no longer included in oil and gas leases or communitized or unitized areas, require appropriate rights-of-way authorizations. When a unit or producing lease boundary changes (including approval and termination of a unit or communitization agreement), the BLM organizational unit responsible for authorizing the action will notify the authorized officer responsible for right-of-way issuance. If facilities are present which never received authorizations in any form, they will be considered under 43 CFR 2801.3 (unauthorized occupancy) or other applicable regulations.

The authorized officer shall examine the BLM records to determine if the information on file pertaining to the subject facilities is sufficient to meet the requirements of the appropriate right-of-way authorization.

If the records on file do not meet the requirements of the appropriate right-of-way authorization, the operator must submit the required information before the facilities are authorized by a right-of-way grant. Normally project descriptions, maps, and specifications provided by the operator in the APD or SN will be sufficient to issue a right-of-way grant. Unless there is a known significant environmental hazard or a threat to public health and safety, new stipulations will not be added to the right-of-way grant. However, it may be appropriate to negotiate with operators in this process for changes to existing facilities, such as road closures or burial of pipelines, where such changes would be in the best interests of all parties.

The right-of-way grant will contain the standard terms, conditions, and stipulations found on 2800-14 and any relevant special stipulations derived from the original APD or SN.

Consultation with the operator should occur if a search of BLM records does not provide the necessary information to determine the original conditions of approval for these facilities. The stipulation relevant to facilities that traverse lease or unit boundaries, located on page 2 of this Information Notice, will also be included in the right-of-way grant.

Since this action is a change in authorization and not a new approval, additional NEPA analysis and decision documents will not be required nor will cost recovery fees be charged. Rentals are effective from the date of conversion. Unit approval could result in previously issued rights-of-way being covered under lease authority. For these cases the operator has the option of relinquishment of the right-of-way and conversion of the right-of-way authorization to lease authorization via SN.

Past Unit Contractions and Lease Boundary Changes:

Operators are faced with a number of situations where facilities located on public lands originally authorized by oil and gas lease terms are no longer included in the lease or unit because of lease-

boundary changes or unit contractions. These facilities may presently exist without valid formal authorization.

Operators known to have such facilities should initiate proceedings to change authorizations to an appropriate right-of-way grant. The operators are encouraged to file for the changes in authorization on a lease, unit, or system basis wherever possible. When the operators notify the authorized officer of facilities or BLM identifies the facilities itself, the guidance provided on page 5 of this Information Notice will be followed.

Facilities identified on public lands without formal authorization after January 1, 1993, will be considered unauthorized use and subject to trespass action.

If you have any questions concerning this matter, please contact the jurisdictional district or resource area office or Rick Ryan or Jenny Saunders of this office at (303) 239-3770.

Date: May 11, 1987

Approved by: Neil Morck, State Director