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**Before the
House Natural Resources Committee
Subcommittee on Energy and Mineral Resources**

**Legislative Hearing on H.R. 4381 (Tipton), H.R. 4382 (Coffman) and H.R. 4383 (Lamborn)
April 26, 2012**

Mr. Chairman and Members of the Subcommittee—thank you for the opportunity to appear before you today. Western Energy Alliance (formerly the Independent Petroleum Association of Mountain States IPAMS) represents 400 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas across the West. Alliance members are small businesses and independent producers that operate on public lands in the West. Our members are proud to produce 27% of America's natural gas and 14% of its oil production while disturbing only 0.07% of public lands.

The process for developing oil and natural gas on non-park, non-wilderness public lands is simple enough in theory, but ever-increasing government regulations and process are making it extremely difficult and cost prohibitive. In fact, even before the addition of recent regulatory hurdles, it would often take ten years or longer to navigate the bureaucratic maze in order to produce on a lease with an initial ten-year term.

Before a company can begin exploring for or developing oil and natural gas on federal lands, it must complete a lengthy three-step process. It is a challenge to navigate this process, as companies are dependent on the federal government for completing certain key actions and approvals. If America wants to increase energy security and grow our economy, regulatory policies much be realigned to support, not hinder, responsible and timely access to oil and natural gas resources on federal lands.

1. Leasing

What used to be a lengthy leasing process is now even longer, with three new layers of analysis and red tape added in May 2010. (Please refer to the *Federal Onshore Oil & Natural Gas Process* position paper and timeline submitted as an attachment to this testimony.)

The bureaucratic process has reduced the efficiency of the Bureau of Land Management (BLM) to the point that in fiscal year 2011, all significant measures were down in the Rocky Mountain West – lease parcels offered by 70%, acreage by 81%, and revenue by 44%. On top of that, the federal government has introduced additional uncertainty by cancelling leases after sale, holding nominations indefinitely, and changing the terms of the contract after sale by adding lease stipulations which can considerably change the value of leases.

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2. NEPA Analysis

When a lease is finally issued, often after several years, that doesn't mean a company can begin developing and producing. It just means that a company has gotten through step one of the three step process. The next process is environmental analysis under the National Environmental Policy Act (NEPA). As of January 1, 2012, there were Environmental Impact Statements (EIS) and Environmental Assessments (EA) underway for 22 projects in the West representing 44,289 wells. The projects are proposed for development over ten – fifteen years, or about 3,164 wells per year. Completing the NEPA and approving the projects could generate **120,905 jobs, \$27.5 billion worth of economic activity, and \$139 million in government revenue annually.**

However, there's a backlog of outstanding projects delayed representing 22,835 proposed wells. Federal government delays of over three years to these projects are preventing the creation of **64,805 jobs, \$4.3 billion in wages, and \$14.9 billion** in economic impact every year. At a time of high unemployment and slow economic growth, these otherwise shovel-ready projects would be a boon to the economy in the West.

3. Permitting

The last major step is to obtain a permit to drill. While states can process their corresponding permits in about thirty days, BLM takes 298 days on average. Our members are often encountering permits and rights-of-way taking over a year. Because it takes so long to get a federal permit, companies must submit more APDs than they may ultimately need in an effort to have at least one in hand when a rig finishes a well and is ready to go onto the next well. Anticipating long lead times, they submit several at a time, but conditions may change in the months and years from the original application.

In order to finally begin drilling, a company must clear several regulatory hurdles. However, rather than being a clean, predictable process, permitting has become subject to ad hoc requirements at the field office level. Often field offices require additional steps that have no basis in regulation. When there is so much uncertainty on how long it will take to clear those hurdles and even what the obstacles may be, it becomes very difficult to secure the necessary capital and equipment to execute a business plan.

Western Energy Alliance Supports the Three Bills

The three bills, H.R.4381 Planning for American Energy Act; H.R. 4382 Providing Leasing Certainty for American Energy Act; and H.R. 4383 Streamlining Permitting of American Energy Act; contain commonsense provisions to clear some of the bureaucratic hurdles in the federal onshore process and encourage domestic energy production. I encourage this committee to pass all three bills. Together these three bills touch on each of the three major onshore process areas described above. Some of the provisions important to Western Energy Alliance members are:

HR4381 Planning for American Energy Act:

- By directing the Interior Secretary to establish goals for energy production, it will compel the government to be clear about its intentions and plans.

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- The plans will allow the public to evaluate whether the government is encouraging or discouraging oil, natural gas, and other energy production.
- With the programmatic environmental impact statement, some of the NEPA hurdles could be cleared within a predictable timeframe to enable projects to go forward.

H.R. 4382 Providing Leasing Certainty for American Energy Act

- Requires that at least 25% of nominated acreage be offered for sale to ensure that sufficient leases continue to be made available
- Protects lease rights by preventing indefinite delay of project approvals, permits, and rights-of-way
- Reduces the timelines from nomination to sale to ensure that development is not delayed indefinitely
- Requires adjudication of lease protests and issuance of parcels within sixty days of sale to prevent indeterminate delays
- Reduces withdrawal of lease parcels prior to sale and eliminates retroactive withdrawal after sale to add integrity to the lease process
- Prevents the retroactive addition of stipulations to leases after sale to guarantee that the government won't change the terms of the offered contract
- Requires leasing to continue in areas designated as open under current Resource Management Plans (RMP) until such time as new RMPs are approved to prevent the current situation of intractable decision making on public lands.

H.R. 4383 Streamlining Permitting of American Energy Act

- Reinforces the thirty day timeline for the Department of the Interior (DOI) to issue permits to drill and deems APDs approved after sixty days if not specifically denied
- Requires \$6,500 APD fee payment only after approval or denial
- Requires 50% of APD fees to remain at the field office where they are processed to ensure that the funds are actually being used where they are needed
- Levies a \$5,000 Administrative Protest Documentation fee for any lease, ROW, or APD protest to provide some financial accountability to those who are holding up economic activity and job creation
- Establishes a federal permit streamlining project
- Clarifies the venue for bringing legal action against an energy project
- Clarifies the ninety-day statute of limitations to file a legal action challenging an energy project to reduce confusion on what constitutes a final decision
- Reduces the statute of limitations for legal challenges to energy projects from six years to 90 days to increase certainty once a project has been approved
- Limits the duration of preliminary injunctions to halt leases or projects on public lands to 60 days
- Clarifies standing requirements for challengers to energy projects.

I urge the committee to pass these important bills. Thank you for the opportunity to testify.

Kathleen Sgamma

Western Energy Alliance

The process for developing oil and natural gas on non-park, non-wilderness public lands is simple enough in theory, but ever-increasing government regulations are making it extremely difficult and cost prohibitive. In fact, even before the addition of recent regulatory hurdles it would often take ten years or longer to navigate the bureaucratic maze in order to produce on a lease with an initial ten-year term.

Before a company can begin exploring for or developing oil and natural gas on federal lands, it must complete a lengthy three-step process. It is a challenge to navigate this process, as companies are dependent on the federal government for completing certain key actions and approvals. If America wants to increase energy security and grow our economy, regulatory policies must be realigned to support, not hinder, responsible and timely access to oil and natural gas resources on federal lands.



Only after all three of these lengthy and expensive steps have been taken can a company begin drilling and producing oil and natural gas.

Step 1: Leasing

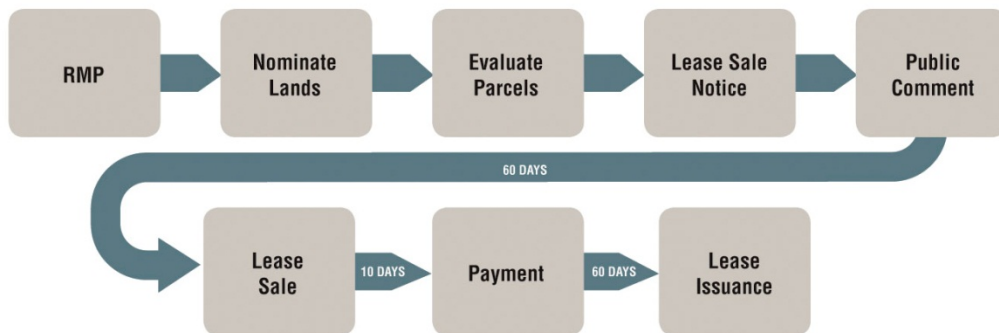
Leasing doesn't mean that the producer has a green light to drill—it's just the first step in a long, expensive process fraught with bureaucratic red tape and lawsuits.

How the leasing process should work:

- The Bureau of Land Management (BLM) completes a Resource Management Plan (RMP), which designates which lands are open for oil and natural gas leasing and specifies what restrictions apply. RMPs are long-term documents normally updated about every fifteen years, and include input from other federal agencies, states, industry, environmental groups, and the general public.
- Operators evaluate open lands that may hold energy resources, and nominate parcels to BLM
- BLM evaluates the nominations and determines when the parcels will be available for auction. Per the Mineral Leasing Act (MLA), BLM must hold at least four annual lease sales per state with oil and natural gas resources.
- BLM publishes a lease notice sixty days before the scheduled sale, initiating a public comment period during which members of the public may protest parcels.
- BLM evaluates the protests, adding new restrictions to lease parcels as it deems necessary.

- BLM publishes a final sales notice and holds a public auction.
- Winning bidders must pay the first year rental and per acreage bonus amount determined at the auction within ten days.
- BLM issues the leases within sixty days of receiving payment from winning bidders (per the MLA) and the ten-year lease term starts.

Standard Leasing Process



Recent leasing policies have resulted in the further restriction of public lands for productive, responsible energy development that creates jobs and economic growth in rural communities across the West.

Reduced Lease Sales: BLM created policies in 2010 that added three additional layers onto the leasing process. These new regulations are in addition to the existing five levels of regulation that for decades have made development on federal lands more time-consuming and difficult compared to private lands. As a result, in the Rockies lease parcels offered by the government have declined by 70%, acreage by 81%, and revenue by 44% since 2008. In Colorado, the BLM offered a shockingly low four parcels in 2011, and Utah was close behind with just seventeen.

Unissued Leases: Federal law requires BLM to issue leases within sixty days of receiving payment from winning bidders. A Government Accountability Office report found that BLM failed to comply with this law 90% of the time.

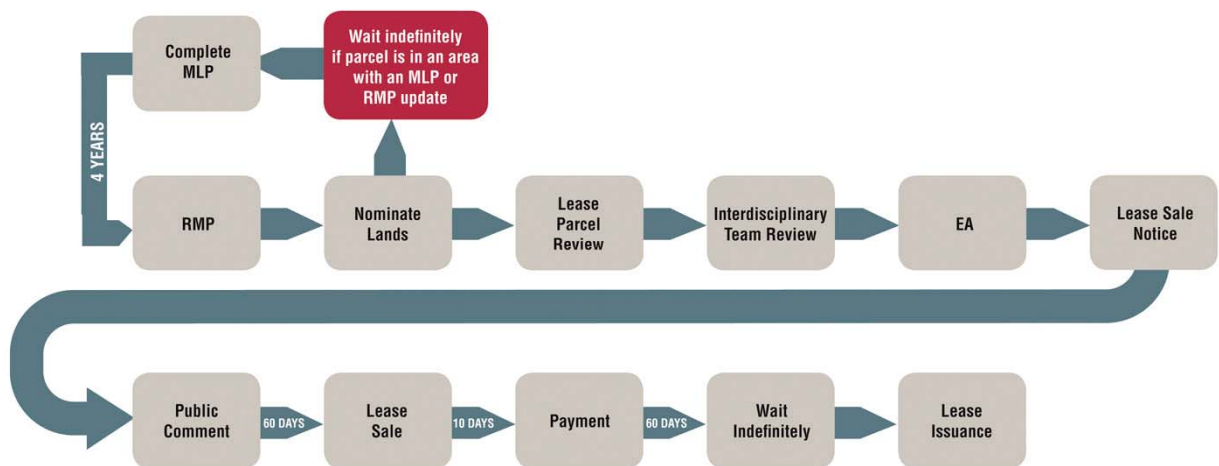
Deferred Leases: BLM is deferring parcels indefinitely throughout the West while it updates RMPs and implements new policies, which often take years.

How the leasing process now works:

- Despite the existence of RMPs with lands open for oil and natural gas, BLM holds up leasing indefinitely while updating RMPs and developing new policies.

- BLM develops Master Leasing Plans (MLP) for certain areas. BLM is considering MLPs for eighteen areas across the West with the resource potential of nearly 300 million barrels of oil and condensate, and 10.5 trillion cubic feet of natural gas. MLPs add at least four years onto the process.
- Operators nominate parcels, but BLM routinely defers parcels indefinitely.
- BLM evaluates the nominations and determines when the parcels will be available for auction. BLM has added redundant layers of Lease Parcel Review, including Interdisciplinary Team Review analysis with other federal agencies, and a leasing Environmental Assessment (EA).
- BLM publishes a lease notice sixty days before the scheduled sale, initiating a public comment period.
- Rather than standing by the decisions in current RMPs, BLM often pulls parcels from the sales, whether or not the protests from environmental groups have merit.
- BLM publishes a final sales notice and holds a public auction.
- Winning bidders must pay the first year rental and per acreage bonus amount determined at the auction within ten days.
- BLM delays issuance of leases, often well beyond the sixty days required by law.

Current Leasing Process with Redundant Layers



When a lease is finally issued, it doesn't mean a company can begin drilling. In fact, it's just the first step in a long and expensive process. The next process is NEPA analysis.

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Step 2: NEPA Analysis

Once a lease has been obtained, oil and natural gas companies must conduct environmental analysis under the National Environmental Policy Act (NEPA). Currently, a backlog of Environmental Impact Statements (EIS) and Environmental Assessments (EA) exists for twenty projects representing 44,289 wells in the West. Completing the NEPA and approving the projects could generate **120,905 jobs, \$27.5 billion worth of economic activity, and \$139 million in government revenue annually.**

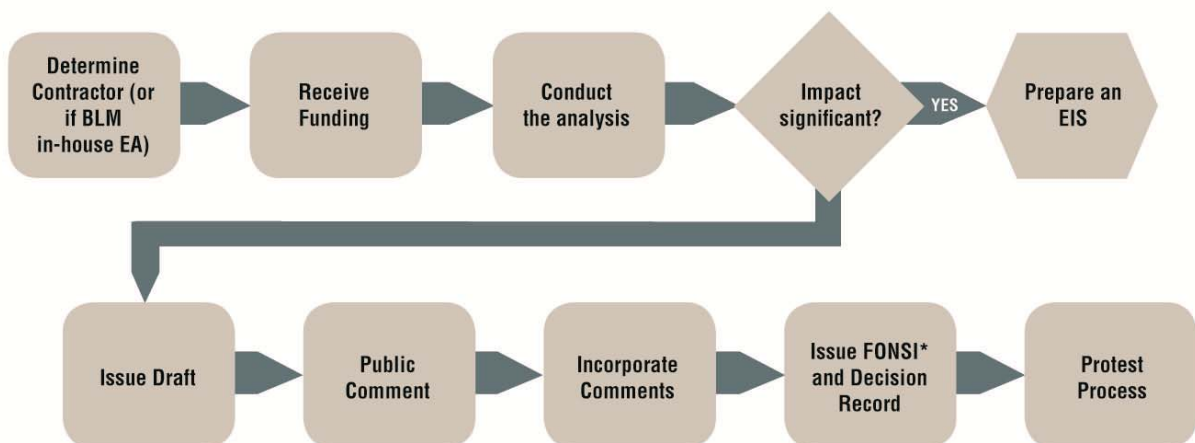
White House Council of Environmental Quality (CEQ) guidelines indicate that EAs should take eighteen months or less, and EISs two to three years, but these guidelines are routinely ignored. Government delays to project NEPA documents of over three years are preventing the creation of **64,805 jobs, \$4.3 billion in wages, and \$14.9 billion in economic impact every year.** In the West, there are several EISs outstanding for over seven years.

Given the political will, BLM has the ability to complete large-scale EISs in a timely manner, as evidenced by solar EISs, some of which have been completed in as little as nine months. Since solar has a larger footprint on the land per unit of energy generated and a permanent impact compared to the temporary impact of oil and natural gas development, the issues addressed in the EISs are on a comparable scale.

Furthermore, oil and natural gas companies pay BLM to hire contractors to complete NEPA documents. There are cases where millions of dollars have been paid for a NEPA document that has languished over seven years with no plan for completion from BLM.

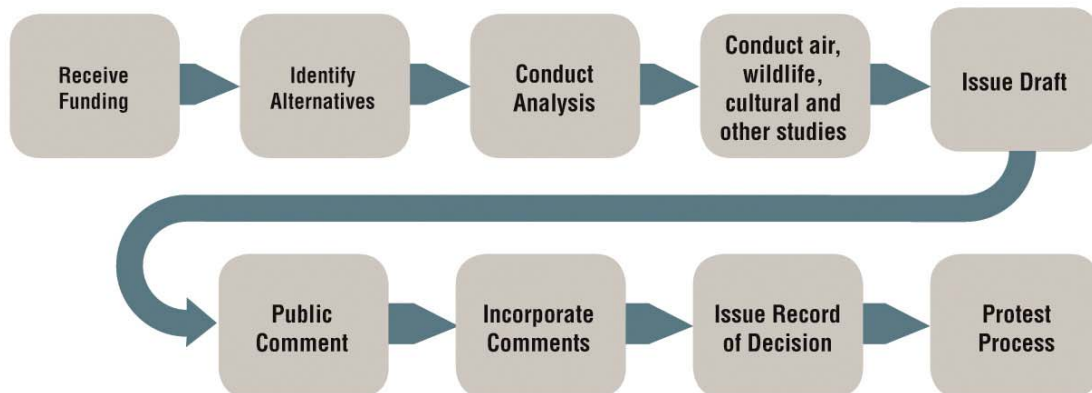


Environmental Assessment Process



*Finding of No Significant Impact (FONSI)

Environmental Impact Statement Process



Western Energy Alliance has proposed common sense policy reforms to reduce the current backlog of NEPA projects that are over three years old. The Alliance recommends timelines and reassignment of resources to clear the backlog of oil and natural gas project NEPA documents, and the establishment of reporting requirements to ensure a similar backlog does not grow in the future.

- Require BLM to identify all outstanding oil and natural gas EISs and EAs over thirty months in progress since the initial scoping period.
- Establish teams of NEPA specialists at the state BLM office level to focus exclusively on completing oil and natural gas NEPA documents. Augment the state teams with national management resources, such as air quality experts, who can help the state NEPA teams with specific technical aspects of the analyses.
- Establish semi-annual reporting requirements to ensure that a similar backlog does not build in the future. When an EIS document reaches the thirty month mark or an EA reaches the twelve month mark, assign a state BLM NEPA team for expedited completion.

Step 3: Permitting

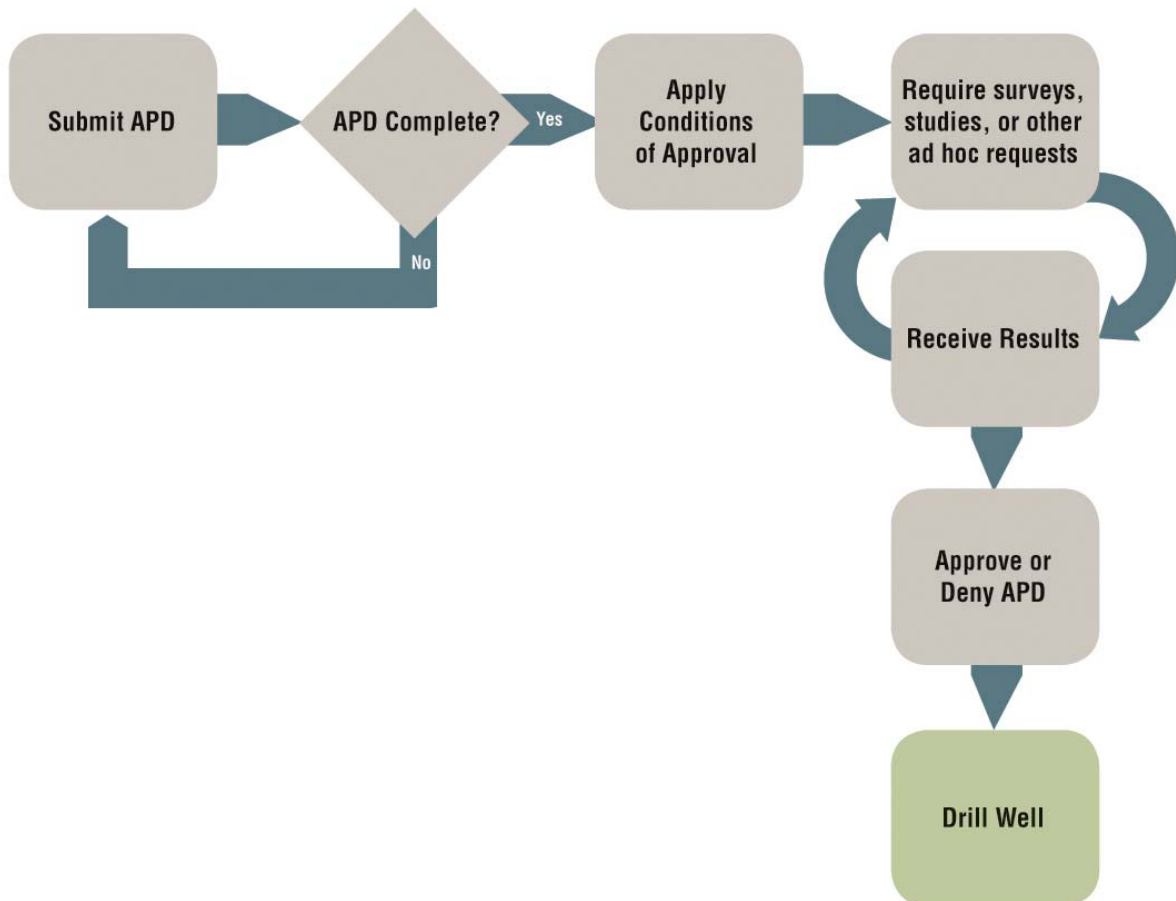
Only once a company has completed the NEPA outlined above can it apply for a permit to actually begin drilling. The Energy Policy Act of 2005 specifies that BLM must approve Applications for Permit to Drill (APD) within thirty days, yet BLM even admits that the average permit time is 298 days. In fact, depending on the field office, it is not that uncommon for APDs to take years. States take about thirty days to approve their corresponding permits for federal wells.

BLM often states that there are 7,000 permits outstanding and therefore industry has nothing to complain about. However, that number was released in March 2011, and has not been updated since. The public doesn't know how many APDs are outstanding as BLM does not release the data. 2,400 of those permits are CBM wells in the Powder River Basin that were released *en masse* in early 2011, over three years after

submittal. If those had been approved in a timely manner, many of those wells would have been drilled, but current economic conditions coupled with additional federal regulatory cost mean that those wells will not get drilled.

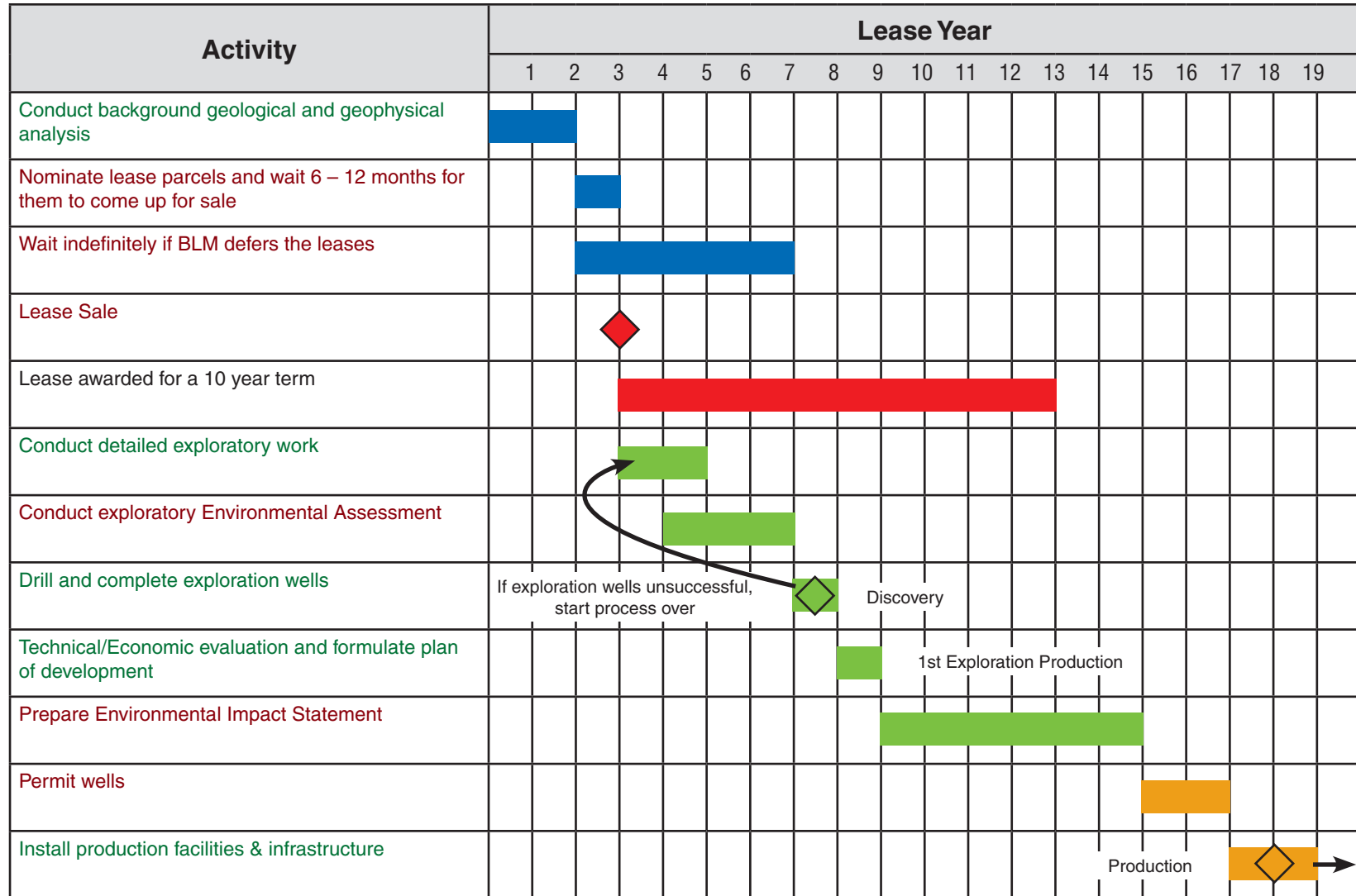
Regardless of the number of outstanding permits, there remains a considerable backlog of APDs that are preventing development today. Because it takes so long to get a federal permit, companies must submit more APDs than they may ultimately need in an effort to have at least one in hand when a rig finishes a well and is ready to go onto the next one. Anticipating long lead times, they submit several at a time, but conditions may change in the months and years from the original application. For example, a company may submit twenty APDs for an area, but after drilling a few wells, may determine that insufficient oil or gas resources prevent further development.

Rather than being a clean process as in the states, permitting has become subject to ad hoc requirements at the field office level.



Federal Onshore Oil and Gas Process Time Line

From Prospect to Production



Legend	■ Pre-leasing evaluation	■ Exploration Phase
	■ Lease Term	■ Production Phase
	Green Text – Operator Responsibility	
	Red Text – Government Responsibility	