

Osage County Oil and Gas EIS



U.S. Department of the Interior
Bureau of Indian Affairs
Eastern Oklahoma Region

March 2017

Osage County Oil and Gas Environmental Impact Statement: Preliminary Draft Alternatives for Public Review

The United States (US) Department of the Interior, Bureau of Indian Affairs (BIA) Eastern Oklahoma Regional Office, is preparing an environmental impact statement (EIS) under the National Environmental Policy Act of 1969 (NEPA). The EIS concerns the management of oil and gas resources owned by the US in trust for the Osage Tribe in Osage County, Oklahoma. The decision area for this EIS covers all subsurface mineral estate in Osage County, which is approximately 1,476,500 acres. All of the subsurface mineral estate in Osage County is administered by the BIA's Eastern Oklahoma Region, Osage Agency.

A draft EIS was released in November 2015. After the public comment period for the draft EIS, the BIA determined that it should be revised in order to address comments received and take into consideration additional information. The BIA conducted additional public scoping, including a public meeting, from April 11 through May 8, 2016. Since public scoping, the BIA has been working with cooperating agencies (including the Osage Nation, Osage Minerals Council, United States Geological Service, and Environmental Protection Agency) and others to gather additional information and create preliminary draft alternatives. To help the BIA refine alternatives for analysis in a draft EIS, the BIA is inviting the public to offer written and oral comments at a public meeting on April 6, 2017 and to submit comments via mail or email during a public comment period which ends on May 8, 2017.

Alternatives

The BIA held five alternative development workshops with cooperating agencies/entities from August 2016 to February 2017. The goal of the workshops was to develop a revised range of reasonable alternatives for the BIA's administration of oil and gas development in Osage County. Based on public scoping and the workshops, the BIA has developed preliminary alternatives in coordination with cooperating agencies—one no action alternative and three

Tell Us What You Think About the Alternatives!

The BIA would like your feedback on the preliminary draft alternatives. We will be hosting a public listening session on Thursday, April 6, 2017 from 3-6 pm at the former Wah-Zha-Zhi Cultural Center (1449 W. Main, Pawhuska, OK 74056).

The listening session will begin with a short presentation on the EIS process and description of each preliminary draft alternative. Following the presentation, the BIA will invite written comment and verbal input on the preliminary draft alternatives from members of the public.

Members of the public wishing to provide verbal input at the listening session may sign up in advance at the BIA Osage Agency (813 Grandview Ave., Pawhuska, OK 74056). Individuals may also sign up for remaining speaking slots at the beginning of the listening session. Each speaking slot will be two minutes long. You can submit written comments at the listening session or mail comments to Jeannine Hale, BIA Eastern Oklahoma Region (P.O. Box 8002, Muskogee, OK 74402; or email your comments to osagecountyoilandgaseis@bia.gov.

While comments are accepted at any time during the NEPA process, we request that you submit comments by Monday, May 8, 2017, to ensure that they are considered when finalizing the alternatives to be analyzed in the draft EIS.

You can stay up to date on the progress of the EIS by visiting the project website at <http://www.bia.gov/WhoWeAre/RegionalOffices/EasternOklahoma/WeAre/Osage/OSAGEOilGasEIS/>.

You can also subscribe to the project mailing list by emailing osagecountyoilandgaseis@bia.gov

action alternatives. The preliminary draft alternatives represent a range of reasonable alternatives for implementing the proposed action and issues that will be evaluated in the revised draft EIS in accordance with the Council on Environmental Quality (CEQ) regulations set forth in 40 CFR, Parts 1500-1508. Following is a brief description of the four new preliminary draft alternatives.

Based on public input, these preliminary draft alternatives will be refined and analyzed through the EIS process. After alternatives development, the BIA will analyze the impacts of each alternative on the natural and human environment. The BIA expects to publish a final EIS in January 2018 and subsequent record of decision in March 2018.

What is a Reasonable Alternative?

- ***Meets the purpose of and need for action***
- ***Is technically practical or feasible***
- ***Is economically practical or feasible***
- ***Shows evidence of common sense***
- ***Feasibility is an initial measure of whether the alternative makes sense and is achievable***

Alternative 1 – No Action

The No Action Alternative would continue the current Osage Agency Oil and Gas program. With regard to NEPA documentation, in November 2014, the BIA published a Programmatic Environmental Assessment (PEA) for Leasing Activities (“Leasing PEA”). In April 2015, the BIA also published a Programmatic Environmental Assessment for Approving Workover Operations (“Workover PEA”). Under the No Action Alternative for this EIS, the BIA would continue to administer oil and gas leasing and workover activities in Osage County in accordance with the measures outlined in the PEAs. These measures would be incorporated into the EIS. The EIS would supersede the PEAs and become the NEPA review for those activities.

BIA would issue drilling permits and approve activities outside the scope of the PEAs based on site-specific environmental assessments tiered to the analysis in the EIS and would apply appropriate best management practices (BMPs) from the standardized list as conditions of approval (COAs). Issuance of an oil or gas lease authorizes some non-ground disturbing activities before permitting. For activities authorized in oil and gas leases (including non-permitted lease activities), the BIA may choose to apply appropriate BMPs listed in Appendix I, Section 7.13, of the 2014 Leasing PEA as COAs. For workover and plugging activities within the scope of the Workover PEA, the BIA

would apply the BMPs listed in Section 5.1 and Attachment A of the Workover PEA as COAs.

The BIA would ensure compliance with the regulations at 25 CFR, Part 226, and applicable laws, such as Section 106 of the National Historic Preservation Act (NHPA) and the Clean Water Act, on a case-by-case basis.

A Biological Opinion (BO) issued by the US Fish and Wildlife Service (USFWS) and based on the current Osage Oil and Gas management program described above would ensure compliance with the Endangered Species Act (ESA). For American Burying Beetle (ABB) compliance, BIA has prepared a Biological Assessment (BA), and USFWS would issue a BO describing the total amount of acreage in the county where incidental take of ABB can occur. BIA would track the total incidental take acreage remaining as leases are developed. Producers would work with BIA using a simplified process to document ESA compliance. Minimization and mitigation measures from the Oil and Gas Industry Conservation Plan for the ABB would be applied to covered activities as COAs in occupied habitat (areas with a positive ABB survey or presumed ABB presence). BIA would allow activities to proceed without a 45-day waiting period where the ABB survey is negative as long as key COAs are applied. For other threatened and endangered species, the BO issued by the USFWS would establish parameters for improved efficiency of BIA consultation for preliminary “no effect” or “may affect/not likely to affect” determinations.

If the No Action Alternative is selected, efficiency and effectiveness of agency processes involved in the management of the oil and gas development program (such as permitting) may or may not improve over time. Agency resource allocation would continue as is unless change is prompted by other factors. The No Action Alternative is analyzed in detail to provide a baseline against which to evaluate the other alternatives in accordance with CEQ guidance.

Alternative 2

Under Alternative 2, some of the COAs would be waived in the planning area. Lessees would be provided with a list of BMPs that the BIA recommends that Lessees implement within the planning area. The workover approval process would have improved efficiency through the application of a set of minimum standard COAs and the use of Notices of Intent or Sundry Notices.

BIA would issue drilling permits based on site-specific EAs tiered to the analysis in the EIS. BIA would pursue a new categorical exclusion to cover wells subsequently drilled in

a particular quarter-section for which an EA of appropriate scope has been prepared and approved. If, after the approval process, a new categorical exclusion were approved, additional wells drilled within 5 years of the initial well in the same quarter section would not need additional NEPA analysis before being permitted so long as the terms of the categorical exclusion are met. Some BMPs that would usually be applied as COAs under the No Action Alternative would not be included as COAs in drilling permits under Alternative 2. BIA would still ensure compliance with existing laws and regulations, but would not provide notice or clarification of requirements through the use of COAs.

Alternative 2 measures may improve the efficiency of the NEPA and permitting processes, but may delay a BO under the ESA and require allocation of more agency resources to compliance. For ESA compliance, with key BMPs eliminated as COAs, BIA would likely need to revise the BA and reinitiate formal consultation under Section 7 of the ESA for ABB compliance. Until the new BO is issued, producers would be solely responsible for documenting compliance under Section 10 of the ESA. Where the ABB survey is negative, activities can only proceed without a 45-day wait period where BIA can justify a “no effect” determination. Without key BMPs as COAs, there would be no agreed parameters for consultation on other threatened and endangered species. The BA would be revised and informal consultation would be re-initiated.

Special buffers or protections necessary for historic or cultural resources would be determined on a case by case basis, so there is greater uncertainty when compared to Alternative 4, which has standardized buffers. The BIA would ensure compliance with the regulations of the NHPA on a case-by-case basis.

Alternative 3

Alternative 3 represents a hybrid approach to the alternatives; it blends concepts of Alternative 2 and Alternative 4. Fewer COAs would be applied in townships with more historical oil and gas development (i.e., high-density townships), while more COAs would be applied in townships with little historical oil and gas development (i.e., low-density townships) in an effort to protect resource values in these more pristine areas. In high density townships, the BIA would apply the same COAs described under Alternative 2. In low-density townships, the BIA would apply additional protective COAs, as described under Alternative 4. Regardless of the density of wells, the additional COAs outlined under Alternative 4 would apply to the areas listed below:

- Tallgrass Prairie Preserve
- State parks
- State wildlife management areas
- US Army Corps of Engineers lakes and lakes used for public water supply
- Municipalities
- Public water supply wells and wellhead protection areas (defined by the Oklahoma Department of Environmental Quality)
- Areas of Class I Special Source Groundwater or areas designated as High Vulnerability (by the Oklahoma Water Resources Board)

For drilling permit applications, and other activities requiring BIA approval that are not within the scope of the Workover PEA (and therefore not within the scope of the workover review in this EIS), the EIS would provide a county-wide framework that site-specific NEPA analyses could be tiered to. Low-density areas would have spacing requirements to limit well density.

Like Alternative 2, the BIA would negotiate a new BO with the USFWS to ensure compliance with the ESA. The new BO would incorporate the hybrid COA approach. During this negotiation, producers would be solely responsible for documenting compliance under Section 10 of the ESA. Under Alternative 3, the BIA would apply no-drilling buffers around identified cultural sites. The BIA would apply additional COAs and otherwise ensure compliance with Section 106 of the NHPA on a case-by-case basis, as necessary.

Alternative 4

Alternative 4 emphasizes resource protection by adding more COAs which could apply in the planning area compared with the No Action Alternative. BIA would issue permits based on site-specific NEPA analysis tiered to the analysis in this EIS. All applicable BMPs from the BIA’s current standardized lists would be enforceable as COAs in permits and approvals, plus additional protective measures for sensitive cultural and environmental resources would apply. Spacing requirements would apply to limit well density. ESA compliance would be the same as the No Action Alternative, so no delay would affect the BA/BO. NHPA compliance and cultural site buffers would be the same as Alternative 3. Alternative 4 provides clear guidelines and more certainty to producers as to what is expected, so the BIA should save resources dedicated to compliance while improving the effectiveness of permitting.

This is the fourth in a series of bulletins from the Bureau of Indian Affairs regarding the Osage County Oil and Gas Environmental Impact Statement. Contact us at osagecountyoilandgaseis@bia.gov if you would like to be added to the mailing list for future bulletins and project updates.

Want More Information?

You can stay up to date on the progress of the EIS by visiting the project website at <http://www.bia.gov/WhoWeAre/RegionalOffices/EasternOklahoma/WeAre/Osage/OSAGEOilGasEIS/>. You can also subscribe to the project mailing list to receive updates on the EIS process and opportunities for public involvement by:

- Emailing osagecountyoilandgaseis@bia.gov
- Mailing a request to Jeannine Hale, BIA Eastern Oklahoma Region, P.O. Box 8002, Muskogee, OK 74402

For more information, contact Jeannine Hale, BIA Eastern Oklahoma Region, P.O. Box 8002, Muskogee, OK 74402, (918) 781-4660, osagecountyoilandgaseis@bia.gov.

Mark Your Calendar!

Osage County Oil and Gas EIS Public Listening Session on Preliminary Draft Alternatives

April 6, 2017 from 3-6 pm

Wah-Zha-Zhi Cultural Center
1449 W. Main, Pawhuska, OK 74056

Sign up at the BIA Osage Agency or at the meeting for a two-minute time slot if you wish to provide verbal input. The BIA encourages groups or organizations wishing to provide verbal input to elect a single representative to provide input on behalf of the group or organization.

You can also submit written comments at the meeting, email them to osagecountyoilandgaseis@bia.gov, or mail them to Jeannine Hale, BIA Eastern Oklahoma Region, P.O. Box 8002, Muskogee, OK 74402. Comments are appreciated by May 8, 2017.

