

Osage County Oil and Gas EIS



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

February 2015

Alternative Development Underway for the Osage County Oil and Gas Environmental Impact Statement

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. Barring extraordinary circumstances, this EIS will fulfill the BIA's NEPA obligations associated with lease approvals and workover and maintenance permits, allowing BIA to approve such leases and issue such permits without further NEPA compliance (assuming issuance of a record of decision authorizing such actions). For drilling permits, this EIS is programmatic in nature; thus, the BIA will be required to prepare site-specific NEPA analyses that will tier off of this EIS.

BIA Authority and Decision Area

The Osage Tribe retained all mineral rights when surface lands were allotted in 1906 (Osage Allotment Act of 1906, 34 Stat. 539). The BIA, under delegation from the Secretary of the Interior, is responsible for administering the development of oil and gas resources in Osage County for the benefit of the Osage Tribe.

The BIA approves oil and gas leases and permit applications in Osage County under the authority of 25 Code of Federal Regulations (CFR) Part 226 (these regulations are currently being revised under a separate process). Leases are subject to the consent of the Osage Minerals Council and approval of the BIA Superintendent.

Why is the BIA Preparing an EIS?

The NEPA is a federal law requiring that federal agencies consider the environmental effects of their actions prior to taking such actions. The purpose of the NEPA is to help

federal agencies make informed decisions while documenting effects on the natural and human environment and complying with other laws and mandates. Actions that are subject to the NEPA include projects and programs that are entirely or partially financed, assisted, conducted, regulated, or approved by federal agencies.

The BIA has determined that an EIS for its oil and gas leasing and permitting program is necessary in order to update its NEPA compliance efforts. The EIS will be a detailed report identifying effects on the natural and human environment resulting from decisions and actions of the BIA. As part of the EIS process, the BIA is developing a range of alternative management actions. The BIA will analyze the direct, indirect, and cumulative impacts of each alternative on the natural and human environment. Based on this impact analysis, the BIA will select an action and publish a record of decision implementing the action. The BIA expects to publish a final EIS in December 2015 and subsequent record of decision in March 2016.

Project History

The BIA held a formal public scoping period to involve the public in identifying significant issues related to the agency's approval of oil and gas leases and permits. The public scoping period was completed as part of the Oklahoma, Kansas, and Texas (OKT) Joint EIS/Resource Management Plan (RMP) scoping period, which began on July 26, 2013, with the publication of a Notice of Intent in the *Federal Register* and concluded on January 31, 2014. Osage County is within the planning area for the OKT Joint EIS/RMP.

The scoping period provided an opportunity for individuals from federal, state, and local agencies, tribes, interest groups, and the general public to express their comments and to provide meaningful input via email, written letters, and participation in 17 public scoping meetings. As part of the scoping period, the BIA held a public

meeting in Pawhuska, Oklahoma on January 15, 2014. All meetings were advertised in local newspapers, on the public website for the OKT Joint EIS/RMP (<http://www.bia.gov/WhoWeAre/RegionalOffices/EasternOklahoma/WeAre/Osage/OSAGEOilGasEIS/>), and in a project newsletter that was mailed to identified interested parties. Meeting materials and the final scoping report are available on the public website for the OKT Joint EIS/RMP. The BIA is using the information collected during this scoping period, along with subsequent input from stakeholders, to formulate the alternatives for the Osage County Oil and Gas Draft EIS.

Based on a request of the Osage Minerals Council during government-to-government consultation, the BIA decided to accelerate the NEPA analysis for oil and gas leasing and development in Osage County ahead of the schedule for the OKT Joint EIS/RMP. Accelerating the Osage County Oil and Gas EIS schedule will allow updated guidance for oil and gas management in Osage County to be prepared in a more timely fashion.

Alternatives

The BIA held an alternative development workshop with cooperating agencies/entities from January 29-30, 2015. The goal of the workshop was to develop a range of reasonable alternatives for the BIA's administration of oil and gas development in Osage County. Based on public scoping and the workshop, the BIA has developed preliminary alternative concepts. Based on public input, these concepts will be refined and analyzed through the EIS process.

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.

No Action Alternative: The BIA would continue to administer oil and gas development in Osage County according to practices currently in use. The BIA would continue to approve leases pursuant to the 2014 Programmatic Environmental Assessment for Leasing Activities (2014 Leasing PEA). For workovers and maintenance operations, the BIA would continue to issue permits pursuant to the forthcoming Programmatic Environmental Assessment for Permitting of Workover Operations (Workover PEA). For applications for permits

to drill and other permit applications not covered under the Workover PEA, the BIA would issue permits based upon site-specific NEPA analyses that would incorporate best management practices on a case-by-case basis. Compliance with applicable laws and regulations would be ensured on a case-by-case basis during the site-specific permitting process.

Action Alternative 1: The BIA would incorporate the measures in the 2014 Leasing PEA and the Workover PEA for leases and workover permits. The BIA would apply resource conservation measures as permit conditions to comply with applicable laws and regulations, such as the Endangered Species Act of 1973 (16 US Code [USC] 1531 et seq.), the Migratory Bird Treaty Act of 1918 (16 USC 703-712), the National Historic Preservation Act of 1966 (16 USC 470), the Clean Water Act of 1972 (33 USC 1251 et seq.), and the Safe Drinking Water Act of 1974 (42 USC 300f to 300j-9). The list of resource conservation measures would be tailored to county-specific conditions and issues. Exceptions would apply where a listed resource conservation measure is not applicable or where a measure proposed by the permit applicant better achieves the purpose of the resource conservation measure. Resource conservation measures to comply with the Endangered Species Act would be determined through consultation with the US Fish and Wildlife Service under Section 7 of the Endangered Species Act. Permit applicants would be able to obtain an incidental take permit under the Endangered Species Act by complying with these resource conservation measures instead of applying for a separate incidental take permit for each oil and gas permit under Section 10 of the Act. Similar to the No Action Alternative, compliance with the Migratory Bird Treaty Act would be ensured through site-specific NEPA analysis and enforcement. Also similar to the No Action Alternative, compliance with the National Historic Preservation Act would continue to be governed by site-specific consultation under Section 106 of the National Historic Preservation Act. Resource conservation measures to comply with Section 303(d) of the Clean Water Act would limit oil and gas activities to prevent exceedance of total maximum daily loads (TMDLs) in impaired waters. Of the five waterbodies in Osage County listed as impaired due to oil and gas activities, none have established TMDLs. Once established, this alternative would require compliance with TMDLs. Resource conservation measures to comply with the Safe Drinking Water Act would restrict oil and gas development in source water protection areas and groundwater wellhead protection areas. This alternative would also formalize protective measures already being used in practice by including them as resource conservation

measures. To clarify requirements of the regulations for Leasing of Osage Reservation Lands for Oil and Gas Mining (25 CFR 226), the BIA would define what features are considered “established watering places” and protected by 200-foot buffers under Section 226.33.

Action Alternative 2: This alternative would be similar to Action Alternative 1 in that it would incorporate the measures in the 2014 Leasing PEA and the Workover PEA and would include a county-specific list of resource conservation measures to ensure compliance with applicable laws and regulations. In addition to the measures put forth in Action Alternative 1, the BIA, in consultation with the Osage Minerals Council, would proactively identify sensitive resource areas to be protected by buffer zones and other restrictive measures. This alternative is more protective of natural and cultural resources and involves proactive measures to comply with requirements of the National Historic Preservation Act, Clean Water Act, and Endangered Species Act. Applying these measures up front rather than waiting until site-specific analysis is completed would provide more certainty to lessees regarding the measures required to develop an oil and gas lease in Osage County. It would also streamline the site-specific permitting process and reduce the permitting, monitoring, and enforcement burden on the BIA Osage Agency. Drilling generally would not be allowed within buffer zones, though exceptions could apply on a site-specific basis. The BIA would apply a no-drilling buffer around culturally sensitive areas, such as historic sites, sacred sites, and grave sites. The cultural buffer size would vary depending on the type of site and site-specific conditions. The BIA would define a range of buffers to be applied to each type of culturally sensitive area and would list example criteria that would be considered in determining the size of the cultural buffer within the defined range. The BIA would also apply interim protective measures to prevent further impairment of the waters in Osage County listed as impaired by oil and gas activities under Section 303(d) of the Clean Water Act until TMDLs are established. These protective measures would be removed or replaced once TMDLs are established for these waters. Migratory birds and Candidate species for listing under the Endangered Species Act (e.g., the upland sandpiper and rattlesnake-master borer moth) would be protected by resource conservation measures designed to minimize destruction and fragmentation of grassland prairie habitat.

Next Steps and How to Get Involved

After the alternatives are developed, the BIA will gather data to describe the current environmental conditions in Osage County. The BIA will continue to collaborate with

Tell Us What You Think About the Alternatives!

The BIA would like your feedback on the draft alternatives. We will be hosting a public listening session on Monday, March 9, 2015 from 4-6 pm at the Wah-Zha-Zhi Cultural Center (1449 W. Main, Pawhuska, OK 74056). The listening session will begin with a short presentation providing background information on the EIS process and additional detail on the measures that would be included in each alternative. Following the presentation, the BIA will invite written comment and verbal input on the draft alternatives from members of the public. This is your chance to tell us whether there are issues that are not addressed by one of the draft alternatives.

Members of the public wishing to provide verbal input at the listening session should 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, and slots will be allocated on a first-come, first-served basis. The BIA encourages groups or organizations to elect a single representative to provide verbal input on behalf of the group or organization.

You can also provide written feedback on the draft alternatives. You can submit your written comments at the listening session; mail your comments to Jeannine Hale, BIA Osage Agency, PO Box 1539, Pawhuska, OK 74056; 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 Wednesday, March 11, 2015, to ensure that they are considered when finalizing the alternatives to be analyzed in the draft EIS.

cooperating entities and other agencies with jurisdiction or expertise in Osage County on the analysis of impacts of each alternative on the natural and human environment. Further opportunities for public participation will occur after publication of the draft and final EIS. The BIA expects to publish the draft EIS in August 2015. After publication of the draft EIS, a formal 45-day comment period will follow during which a public meeting will be held to provide information on the EIS and receive public comments. Publication of the draft and final EIS will be announced via a Notice of Availability in the *Federal Register*.

This is the first in a series of bulletins from the Bureau of Indian Affairs regarding the Osage County Oil and Gas Environmental Impact Statement. Contact us at osagecountyoilgaseis@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 osagecountyoilgaseis@bia.gov
- Mailing a request to Jeannine Hale, BIA Osage Agency, PO Box 1539, Pawhuska, OK 74056

For more information, contact Jeannine Hale, Deputy Superintendent, BIA Osage Agency, 813 Grandview Ave., Pawhuska, OK 74056, (918) 287-5700, osagecountyoilgaseis@bia.gov.

Mark Your Calendar!

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

March 9, 2015 from 4-6 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 osagecountyoilgaseis@bia.gov, or mail them to Jeannine Hale, BIA Osage Agency, PO Box 1539, Pawhuska, OK 74056. Comments are appreciated by March 11, 2015.

