

develop. This would constitute an unfair burden on the oil and gas lessees who have priority rights in developing their associated mineral resource. All properties alluded to fall within the Deep Lease Extension with the exception of Sec. 24, T. 30 N., R. 15 W. The BLM reminds BHP-Billiton of Special Stipulation 3 of coal lease NM NM 99144 (The Deep Lease Extension) issued March 1, 2001, which reads:

"It is solely the responsibility of the coal lessee, not the responsibility of BLM, to clear the coal tract of any legal encumbrances or pre-existing land uses that would impede or prevent coal mining on the tract."

The BLM cannot encumber the issuance of APDs with unreasonable conditions of approval that render the lessees' operations uneconomic. Consequently, the APDs on Federal oil and gas lease NM-99003 in Secs. 30 and 31, T. 31 N., R. 14 W. are approved. There are several steel-cased well bores already existing on the coal leases with the potential for several more in the foreseeable future with subsequent issuance of additional APDs to the operators. In the interest of mitigating the perceived safety threat to the underground mining operations, the BLM strongly encourages BHP-Billiton to reach a settlement with the oil and gas operators in the area as quickly as possible.

Under provisions of 43 CFR 3165.3, you may request an Administrative Review, before the State Director either with or without oral presentation, or the action described above. Such a request, including all supporting documentation, shall be filed in writing with the State Director, Bureau of Land Management (NM-93000), P.O. Box 27115, Santa Fe, New Mexico 87502-0115 within 20-business days of the date this notice was received or considered to have been received. Such request shall not result in a suspension of the action unless the reviewing official so determines. Procedures governing appeals from instructions, orders or decisions are contained in 43 CFR 3165.4 and 43 CFR 4.400 *et seq.*

If you have any questions regarding the above, please contact Dave Mankiewicz at (505) 599-6387.

Sincerely,



Steve Henke
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