

[6450-01-P]

**DEPARTMENT OF ENERGY**

**Notice of Intent to Prepare a Programmatic Environmental Impact Statement for the U.S. Department of Energy Uranium Leasing Program**

**AGENCY:** Department of Energy (DOE)

**ACTION:** Notice of Intent to Prepare a Programmatic Environmental Impact Statement for the DOE Uranium Leasing Program

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**SUMMARY:** DOE announces its intent to prepare a Programmatic Environmental Impact Statement (PEIS), pursuant to the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. § 4321, *et seq.*), the Council on Environmental Quality's (CEQ) NEPA regulations (40 C.F.R. Parts 1500-1508), and DOE's NEPA implementing procedures (10 C.F.R. Part 1021), to analyze the reasonably foreseeable environmental impacts, including the site-specific impacts, of alternatives for the management of DOE's Uranium Leasing Program (ULP), under which DOE administers tracts of land for the exploration, development, and extraction of uranium and vanadium ores. DOE's ULP includes tracts of land located in Mesa, Montrose, and San Miguel counties in western Colorado that cover a cumulative acreage of approximately 25,000 acres. In July 2007, DOE issued a Programmatic Environmental Assessment (PEA) for the ULP (DOE/EA-1535) (available at [http://www.lm.doe.gov/land/sites/uranium\\_leasing/uranium\\_leasing.htm](http://www.lm.doe.gov/land/sites/uranium_leasing/uranium_leasing.htm)), in which it examined three alternatives for the management of the ULP for the next ten years. In that same month, DOE issued a Finding of No Significant Impact (FONSI) (available at <http://nepa.energy.gov/documents/EA-1535FONSI.pdf>), in which DOE announced its decision to proceed with the preferred "Expanded Program Alternative" that was examined in its July

2007 PEA, and also determined that the preparation of an Environmental Impact Statement (EIS) was not required.

DOE has determined that, in light of the site-specific information that DOE has gathered as a result of the site-specific agency actions proposed and approved pursuant to the July 2007 PEA/FONSI, it is now appropriate for DOE to prepare a PEIS in order to analyze the reasonably foreseeable environmental impacts, including the site-specific impacts, of a range of alternatives for the management of the ULP for the remainder of the ten-year period that was covered by the July 2007 PEA.

DOE is issuing this Notice of Intent (NOI) to inform interested parties of this PEIS and to invite public comments on its proposed scope, including the preliminary range of alternatives and environmental issues to be considered. DOE plans to invite Federal, state, and local governmental agencies with jurisdiction by law or special expertise to participate as cooperating agencies in preparing the PEIS.

**DATES:** DOE invites comments on the proposed scope of the PEIS. To ensure consideration, comments must be submitted by **[INSERT DATE 60 DAYS AFER PUBLICATION OF THIS NOTICE]**. DOE will consider comments e-mailed or postmarked after that date to the extent practicable. In addition to receiving written comments (*see* “**ADDRESSES**” below), DOE will conduct public scoping meetings during which interested government agencies, Native American tribes, private-sector organizations, and the general public are invited to present oral and written comments. DOE will announce the dates, times, and locations of the public scoping

meetings in a separate *Federal Register* notice and in local news media at least 15 days before the meetings.

**ADDRESSES:** Written comments on the scope of the PEIS and requests to be included in future communications should be addressed to the ULP Program Manager, Ms. Laura Kilpatrick, Esq., Realty Officer, Asset Management Team, Office of Legacy Management, U.S. Department of Energy, 11025 Dover Street, Suite 1000, Westminster, CO 80021, 720-880-4338, [laura.kilpatrick@lm.doe.gov](mailto:laura.kilpatrick@lm.doe.gov).

**FOR FURTHER INFORMATION CONTACT:** For further information about this PEIS, please contact the ULP Program Manager, Ms. Laura Kilpatrick, at the addresses listed above.

For general information on the DOE NEPA process, please contact Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (GC-54), U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585; telephone (202-586-4600); fax (202-586-7031); or leave a toll-free message (1-800-472-2756).

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Congress directed DOE's predecessor agency, the U.S. Atomic Energy Commission (AEC), to develop a supply of domestic uranium that would adequately meet the Nation's defense needs (42 U.S.C. §§ 2096-2097). Congress gave to AEC the authority to withdraw Federal lands for the exploration and development of a viable domestic uranium source under a variety of

programs that were carried forward in the Atomic Energy Act of 1954. Around the same time, the U.S. Bureau of Land Management (BLM) issued Public Land Order (PLO) 459 that stated, "Subject to valid existing rights and existing withdrawals, the public lands and the minerals reserved to the United States in the patented lands in the following areas in Colorado are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining laws but not the mineral-leasing laws, and reserved for the use of the United States Atomic Energy Commission." The areas under consideration are located in western Colorado in Mesa, Montrose, and San Miguel counties. Subsequently, other PLOs increased or decreased the total acreage in withdrawn status.

In addition, the Federal Government, through the Union Mines Development Corporation, acquired a substantial number of patented and unpatented mining claims, milling, tunnel sites, and agricultural patents, until the aggregated acreage managed by AEC totaled approximately 25,000 acres.

The Mineral Leasing Program, which was in operation from approximately 1949 to 1962, produced more than 1.2 million pounds of uranium and 6.8 million pounds of vanadium, and generated \$5.9 million in royalties to the Federal Government. When the program ended in 1962, AEC directed the lessees to close the mines, but little was done to reclaim the mine sites.

AEC initiated a second leasing program in 1974 under the Domestic Uranium Program regulations (10 C.F.R. § 760.1) that was called the Uranium Lease Management Program (ULMP). This program was designed to address the lack of production capacity of uranium --

and vanadium -- bearing ores for the U.S. Government defense needs, and emphasized the need for uranium in the expanding commercial nuclear energy market. The two main goals of the ULMP were to recover the resources that had been developed initially by AEC and to improve the prospects for continued mill operations, thereby encouraging further exploration and development on privately-held land. In preparation for the ULMP in 1972, AEC evaluated potential environmental and economic impacts related to the ULMP in the *Environmental Statement: Leasing of AEC Controlled Uranium Bearing Lands*. AEC and its successor agencies, the U.S. Energy Research and Development Administration and DOE, administered the ULMP. In 1984, DOE renewed the lease agreements for a second ten-year term.

During the ULMP, DOE and BLM acknowledged that each agency had defined jurisdictional authority over the various activities that could be conducted on the lease tracts. DOE maintained jurisdiction and authority over all activities on withdrawn lands associated with uranium and vanadium mining, including exploration, development, extraction (mining), and transportation. BLM maintained jurisdiction and authority over all other surface uses. This acknowledgment of the agencies' jurisdiction continues today.

In July 1995, DOE prepared a programmatic environmental assessment (PEA) to inform DOE's determination whether the leasing program should continue. DOE then issued a FONSI in August 1995, in which it determined to continue the ULP. DOE subsequently entered into negotiations with the previous lessees. Seven of the lessees informed DOE that they did not wish to continue with the program and began reclamation of their lease tracts. DOE then entered into 13 new lease agreements with the remaining lessees.

In 2005, DOE initiated a review of its 1995 PEA, and began to prepare a new PEA to evaluate the continuation of the ULP. In the July 2007 PEA, DOE examined three alternatives for the management of the ULP for the next ten years, including DOE's preferred "Expanded Program Alternative," under which DOE would continue and expand the existing ULP. Under that alternative, DOE would extend the 13 existing leases for a ten-year period, and then expand the ULP to include the competitive offering of up to 25 additional lease tracts to the domestic uranium industry. In the July 2007 FONSI, DOE announced its decision to proceed with the Expanded Program Alternative. DOE determined that the Expanded Program Alternative would not constitute a major Federal action significantly affecting the quality of the human environment, within the meaning of NEPA; and, therefore, that preparation of an EIS was not required.

After the issuance of the July 2007 PEA and FONSI, DOE took a series of site-specific agency actions to implement the ULP. These actions included: entering into new lease agreements for 31 lease tracts after reconfiguring the expanded number of tracts from 38 to 31 (currently, 29 tracts are actively held under lease, and the remaining two tracts are not leased), approval of exploration plans on some leases, and approval of reclamation-in-lieu-of-royalties (RILOR) plans on some leases (under which a lessee agreed to perform necessary reclamation services on its lease, and in return DOE agreed to reduce the amount of royalties that the lessee must pay to the U.S. Government). DOE reviewed each of the exploration plans and RILOR plans in accordance with DOE's NEPA regulations, and determined that each of the plans was categorically excluded from further environmental evaluation under categorical exclusions set

forth in DOE's NEPA regulations. DOE has not received any mining plans from any of its ULP lessees; and no mining activities are currently being performed on any of the ULP leases.

DOE believes that in light of the site-specific information that it has gathered as a result of the site-specific agency actions proposed and approved pursuant to the July 2007 PEA and FONSI, it is now appropriate to prepare a PEIS in order to analyze the reasonably foreseeable environmental impacts, including the site-specific impacts, of a range of alternatives for the management of the ULP for the remainder of the ten-year period that was covered by the July 2007 PEA. DOE's preparation of this PEIS is in accordance with DOE's NEPA regulation at 10 C.F.R. § 1021.300(b), which provides that DOE may prepare a NEPA document for any DOE action at any time in order to further the purposes of NEPA, and may do so "to analyze the consequences of ongoing activities, support DOE planning, assess the need for mitigation, fully disclose the potential environmental consequences of DOE actions, or for any other reason."

DOE is separately preparing to enter into consultation with the U.S. Fish and Wildlife Service, in compliance with Section 7 of the Endangered Species Act, concerning DOE's management of the ULP.

The ULP lease tracts are located in the western portions of Mesa, Montrose, and San Miguel Counties, in western Colorado. Elevations of the mesas and valleys throughout this semiarid area vary from 5,500 feet above sea level in the valleys to approximately 8,000 feet above sea level on top of the higher mesas. Except for the cities of Montrose and Grand Junction, which

are each more than 50 miles from the nearest lease tract, the region is sparsely populated and has few towns.

The lease tracts are located in four geographical areas referred to as the Gateway, Uravan, Paradox Valley, and Slick Rock lease tracts. The Gateway lease tracts are remotely located on the tops and side slopes of Outlaw and Calamity Mesas; surface runoff from these areas travels through Maverick and Calamity Creeks, which are tributaries of the Dolores River. The Uravan lease tracts in Montrose County are located on the tops and side slopes of Spring Creek, Atkinson, and Club Mesas, near the historical community of Uravan, which has only two remaining buildings. The Dolores River and its main tributary, the San Miguel River, flow in the valley bottoms below the lease tracts. The Paradox Valley lease tracts are in Montrose and San Miguel Counties in a broad valley flanked by the high plateaus of Monogram Mesa and Long Park. The Slick Rock lease tracts are located near the historical community of Slick Rock in San Miguel County. In this area the land surface is deeply incised by the Dolores River and its tributaries; the Dolores River Canyon in this area is approximately 500 feet wide at the bottom and is characterized by steep slopes and sheer cliffs.

Land use on and around the ULP lease tracts include mining, oil and gas exploration and production, timber harvesting, recreation, agriculture, and grazing. DOE and BLM administer the lands within the lease tract boundaries. Considerable mineral exploration and development has occurred historically in the lease tract areas. Mined minerals have included coal, oil and gas, sand and gravel, radium, uranium, and vanadium; uranium and vanadium mining, and oil and gas exploration, are the predominant mineral activities. Sections of the more active lease tracts, such



as in Paradox Valley, have been substantially mined and are restricted from public access; other tracts remain open for other surface and subsurface uses. The public uses many of the unimproved roads around and near some of the lease tracts for recreational purposes, grazing, and general ranching.

### **Purpose and Need for Agency Action**

In light of the site-specific information that DOE has gathered as a result of the site-specific agency actions proposed and approved pursuant to the July 2007 ULP PEA/FONSI, it is now appropriate for DOE to prepare a PEIS in order to analyze the reasonably foreseeable environmental impacts, including the site-specific impacts, of the range of reasonable alternatives for the management of the ULP for the remainder of the ten-year period that was covered by the July 2007 PEA.

The underlying purpose and need for agency action is that, in support of the Energy Policy Act of 2005 (Public Law 109-58), which emphasized the reestablishment of nuclear power (Sections 601 through 657), DOE needs to determine the future course of the ULP, including whether to continue leasing some or all of DOE's withdrawn lands and government-owned patented claims (referred to as "DOE-managed lands") for the exploration and production of uranium and vanadium ores for the remainder of the ten-year period that was covered by the July 2007 PEA. The Domestic Uranium Program regulation (10 C.F.R. § 760.1) gives DOE the flexibility to continue leasing these DOE-managed lands via a competitive bidding process to achieve the highest returns for the Government. A key element in this determination is the analysis of environmental impacts attributable to lease tract operations and associated activities. Therefore,

DOE will prepare this PEIS to provide such information to decision-makers, as well as to the public.

### **Proposed Action**

DOE's proposed action is to decide whether to continue the ULP for the remainder of the ten-year period covered by the July 2007 PEA; and, if it decides to continue the ULP, to determine which alternative to adopt in order to manage the ULP during that period.

### **Alternatives**

As required by the CEQ and DOE NEPA implementing procedures, at 40 C.F.R. Parts 1500-1508 and 10 C.F.R. Part 1021, respectively, DOE will analyze the range of reasonable alternatives for continuation of the ULP. In accordance with CEQ's NEPA implementing procedures at 40 C.F.R. § 1508.25(b), DOE will also analyze the "no action" alternative. DOE proposes that the alternatives to be analyzed in the PEIS include the following:

- 1) DOE would terminate the leases for the ULP; lessees would be required to reclaim their operations on their respective leases; and, once final reclamation activities were completed, DOE would continue its management of the withdrawn lands, without leasing, in accordance with applicable requirements.
- 2) DOE would terminate the leases for the ULP; lessees would be required to reclaim their operations on their respective leases; and, once final reclamation activities were completed, all lands would be restored to the public domain with the approval of BLM and under BLM's administrative control, and DOE's leasing program would end.

- 3) DOE would continue the ULP as it existed before the issuance of the July 2007 PEA/FONSI; the 13 then-active leases would be continued for the ten-year period covered by the July 2007 PEA/FONSI, or for another reasonable period; and DOE would terminate the leases for the remaining leases tracts. Regarding the leases that would be terminated, DOE would follow the procedures proposed either in alternative (1) above, or in alternative (2) above. Regarding the 13 leases that would be continued, the lessees would be allowed to file plans to explore for and mine uranium and vanadium ore reserves on their respective tracts, and to engage in reclamation activities on those tracts. For those 13 leases, DOE would analyze, among other things, the reasonably foreseeable environmental impacts, including the site-specific impacts, of leasing, exploration, mining activities (including any resumption of mining activities that were previously approved), transportation, and reclamation, as well as cumulative impacts resulting from the incremental impacts of those actions when added to other past, present, and reasonably foreseeable future actions. DOE would explore reasonable mitigation measures to avoid or minimize potential environmental impacts.
- 4) DOE would continue the ULP for the expanded number of leases in the July 2007 PEA/FONSI; the expanded number of leases would be continued for the ten-year period covered by the July 2007 PEA/FONSI, or for another reasonable period. For all of those ULP leases, the lessees would be allowed to file plans to explore for and mine uranium and vanadium ore reserves on their respective tracts, and to engage in reclamation activities on those tracts. DOE would analyze, among other things, the reasonably foreseeable environmental impacts, including the site-specific impacts, of leasing, exploration, mining activities (including any resumption of mining activities that were

previously approved), transportation, and reclamation, as well as cumulative impacts resulting from the incremental impacts of those actions when added to other past, present, and reasonably foreseeable future actions. DOE would explore reasonable mitigation measures to avoid or minimize potential environmental impacts.

- 5) DOE would continue the ULP exactly as it was approved in the July 2007 PEA/FONSI, and would continue to approve plans by lessees as it has done since the issuance of the July 2007 PEA/FONSI.

Alternative (5) would be the “no action” alternative in the PEIS.

### **Preliminary Identification of Environmental Issues**

DOE proposes to address the environmental issues listed below. This list is neither intended to be all-inclusive, nor a predetermined set of potential impacts. DOE invites comments on whether this is an appropriate list of issues that should be considered in the PEIS. The preliminary list of potentially affected resources or activities and their related environmental issues includes:

Biological resources: including potential impacts to vegetation, wildlife, threatened or endangered species, migratory birds, and ecologically sensitive habitats;

Water resources: potential impacts on surface water and ground water;

Cultural and historic resources;

Floodplains and wetlands: DOE will assess potential impacts of actions that may occur in a floodplain or wetland in accordance with DOE floodplain and wetland environmental review requirements (10 C.F.R. Part 1022). (Portions of three lease tracts are located within the 100-year floodplain of the Dolores River.);

Socioeconomics: potential impacts to schools, housing, public services, and local revenues, including the creation of jobs;

Transportation: including potential impacts on transportation corridors;

Accidents and intentional destructive acts;

Air quality: including potential impacts on regional air quality and climate change;

Land use: potential impacts on mining, recreation, timber harvesting, agriculture, grazing, and soils;

Environmental justice: potential for disproportionately high and adverse impacts on minority and low-income populations;

Noise and light: potential disturbance impacts from construction, transportation of materials, and operations;

Wilderness areas; Wild and scenic rivers: DOE will assess potential impacts on the Dolores River Canyon Wilderness Study Area from increased activity and mining on portions of three lease tracts, and potential impacts on the Dolores River and San Miguel River;

Visual resources;

Human health and safety: including potential impacts from public exposure to radioactive or hazardous materials, traffic accidents, land subsidence, and other potential hazards;

Cumulative impacts: for each alternative DOE will assess potential effects that could result from the incremental impacts of the action when added to other past, present, and reasonably foreseeable future actions.

### **Public Scoping Process**

This NOI initiates the scoping process under NEPA, which will guide the development of the Draft PEIS. To ensure that all issues related to DOE's proposed action are addressed, DOE

invites public comments on the scope of the PEIS. Interested government agencies, Native American tribes, private-sector organizations, and the general public are encouraged to submit comments or suggestions on the scope of the PEIS, including potential issues and environmental impacts that should be addressed and the alternatives that should be considered. The scoping period will end **[INSERT DATE 60 DAYS AFTER PUBLICATION OF THIS NOTICE]**. Comments should be submitted by that date to ensure consideration (*see* “**ADDRESSES**” above). DOE will consider comments e-mailed or postmarked after that date to the extent practicable.

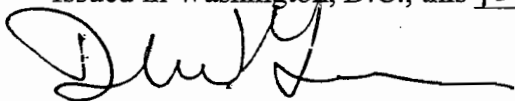
DOE will conduct public scoping meetings in the vicinity of the ULP lease tracts at dates, times, and locations to be announced in a separate *Federal Register* notice and in local news media at least 15 days before the meetings. Oral comments will be heard during the formal portion of the scoping meetings. The public is also invited to learn more about the project at an informal session at each location. DOE requests that anyone who wishes to speak at the public scoping meetings should contact Ms. Laura Kilpatrick, by e-mail or postal mail (*see* “**ADDRESSES**” above).

Those who do not arrange in advance to speak may register at the meeting (preferably at the beginning of the meeting) and would be given an opportunity to speak after previously scheduled speakers. Speakers will be given approximately five minutes to present their comments. Those speakers who want more than five minutes should indicate the length of time desired in their request. Depending on the number of speakers, DOE may need to limit all speakers to five minutes initially and provide additional opportunity as time permits. Individuals may also

provide written materials in lieu of, or supplemental to, their presentations. DOE will give equal consideration to oral and written comments.

DOE will consider public scoping comments in preparing the Draft PEIS. DOE will issue the Draft PEIS for public review and conduct public hearings. DOE will consider public comments on the Draft PEIS and respond as appropriate in the Final PEIS. No sooner than 30 days following completion of the Final PEIS, DOE will issue a Record of Decision regarding the proposed action.

Issued in Washington, D.C., this 15<sup>th</sup> day of June 2011.



David W. Geiser  
Director  
Office of Legacy Management