



United States Department of Agriculture
Office of Inspector General





Management of Oil and Gas Resources on National Forest System Land

Audit Report 08601-0001-21

What Were OIG's Objectives

OIG initiated this audit to determine whether FS effectively managed the exploration and development of oil and gas resources on NFS lands in accordance with applicable laws and regulations. We also determined if FS was processing requests to drill on Federal lands as expeditiously as possible and if FS was cooperating with other agencies, particularly BLM.

What OIG Reviewed

Based on the size and complexity of operations, as well as the potential for environmental harm, we visited national forests with the most lease oil and gas activities. At these national forests, we examined the forest's authorization and monitoring of leasing and drilling activities.

What OIG Recommends

We recommend that FS coordinate with BLM to expedite approval of lands, use BLM systems to track inspections, develop spill response plans, and revise performance measures. FS generally agreed with our recommendations, and we accepted management decision on all recommendations.

OIG reviewed how FS is cooperating with the Department of the Interior to expedite the approval of oil and gas leases and operations on NFS lands.

What OIG Found

Rising energy prices have increased interest in the exploration and development of domestic oil and gas resources, some of which are found beneath public lands within national forests. When oil and gas companies apply to drill on National Forest System (NFS) land, the Forest Service (FS) works with the Bureau of Land Management (BLM) in the Department of the Interior to regulate its operations. BLM receives lease nominations, issues and administers all Federal leases, and monitors all drilling and production activities, while FS accepts and processes lease nominations, authorizes the use of forest land for oil and gas operations, and monitors surface disturbance and reclamation.

The Office of Inspector General (OIG) found that the two agencies need to improve how they work together so that oil and gas lease nominations and operations are approved expeditiously. Despite the existence of a Memorandum of Understanding (MOU) established as a result of the Energy Policy Act of 2005, most of FS' communication with BLM has been informal—when problems obstructing cooperation occurred, they were not resolved. The two agencies also need to better track information, such as the number of days for nominated parcels to be processed, as we found that deadlines were often missed. We also found that FS could not validate whether all well sites were being inspected annually, as required.

Permitting oil and gas drilling on NFS lands does pose an environmental risk, but FS does not require operators to submit a spill plan that would ensure that operators are prepared to quickly respond to any spills. Finally, OIG noted that FS established performance measures to assess the work done in the program, but those measures did not clearly record the outcomes of key program activities. As a result, FS officials were not receiving the data needed to make appropriate program decisions and were unable to determine which program activities were not performed timely.



United States Department of Agriculture
Office of Inspector General
Washington, D.C. 20250



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AUDIT
NUMBER: 08601-0001-21

TO: Thomas L. Tidwell
Chief
Forest Service

ATTN: Thelma Strong
Chief Financial Officer

FROM: Gil H. Harden
Assistant Inspector General for Audit

SUBJECT: Management of Oil and Gas Resources on National Forest System Land

This report presents the results of the subject audit. Your written response to the official draft report, dated February 13, 2013, is included in its entirety at the end of this report. Excerpts from your response and the Office of Inspector General's position are incorporated into the relevant sections of the report. Based on your response, we accept management decision on all recommendations. Please follow your agency's internal procedures in forwarding documentation for final action to the Office of the Chief Financial Officer.

In accordance with Departmental Regulation 1720-1, final action needs to be taken within 1 year of each management decision to prevent being listed in the Department's annual Agency Financial Report.

We appreciate the courtesies and cooperation extended to us by members of your staff during our audit fieldwork and subsequent discussions.

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Background and Objectives

Background

Forest Service (FS) manages 193 million acres of national forests and grasslands throughout the United States. The agency's mission is to sustain the health, diversity, and productivity of the nation's forests and grasslands to meet the needs of present and future generations. FS manages its lands in such a way that it will meet the diverse needs of people and allows for multiple uses, such as hunting, grazing, recreation, and oil and gas activities.¹

Leasing of Federal oil and gas resources occurs mostly on Bureau of Land Management (BLM) and FS land. In 2005, Congress passed the *Energy Policy Act of 2005* (Energy Policy Act), directing FS and BLM to coordinate how oil and gas activities are managed, in order to streamline energy leasing and permitting.² Both agencies currently share responsibilities over the process, including reviewing land nominations for oil and gas leasing, approving drilling activities, monitoring production, and reclaiming the land. BLM receives nominations and administers all Federal leases and monitors all drilling and production activities, while FS accepts and processes lease nominations and authorizes the use of national forest system land for oil and gas operations and monitors surface disturbance.³

Managing oil and gas resources starts with FS identifying the land available for leasing through the development of land-use plans. These plans identify where and under what conditions oil and gas leasing and exploration activities can take place on national forest system land. Operators can also nominate to BLM specific lands that may not have been previously identified in FS land-use plans.⁴ In both instances, FS must comply with the National Environmental Policy Act of 1969 (NEPA) to assess the impact oil and gas operations could have on land identified for future development, and also ensure compliance with applicable statutory requirements.

After interest is expressed and FS determines the lands are available for leasing, it authorizes BLM to make the land parcel available for lease—the highest bid wins the lease. Once a lease is authorized, the operator can submit an Application for Permit to Drill (APD) anytime it wants to start drilling operations.⁵ The APD must include a Surface Use Plan of Operation (plan of operation), which will provide details about the type, size, and intensity of the surface

¹ Multiple use management means managing resources under the best combination of uses to benefit the American people, while ensuring the productivity of the land and protecting the quality of the environment.

² There may be other agencies involved in the development of oil and gas activities on National Forest System lands, such as the U.S. Fish and Wildlife Service, the Bureau of Reclamation, the Bureau of Indian Affairs, the Office of Natural Resource Revenues, the Environmental Protection Agency (EPA), and the Army Corps of Engineers.

³ When conducting drilling inspections, BLM verifies the appropriateness of the casings being used, and the activities the operators perform while drilling the hole, installing casing, and extracting the oil or gas.

⁴ Operators may request FS to offer specific lands for leasing and development. FS will conduct research to determine whether these lands are available for leasing. If so, FS will authorize BLM to auction the land parcel for lease.

⁵ Generally, an operator has up to 10 years to start drilling on the land; however, not all operators choose to drill, due to feasibility or profitability.

disturbance the activities will cause. The plan of operation also contains information about the containment areas that operators will build, including dikes and ditches, to prevent or minimize potential spills. FS requires these preventive measures to address spills that could potentially damage forest land and other resources.⁶

Although BLM approves APDs, FS must review the plans of operation and determine whether the operator's proposed actions are consistent with the lease stipulation and will be sufficient to protect the land. Since drilling permits are not always submitted immediately after the lease is authorized, FS has to verify if prior NEPA analyses are still current. Sometimes, FS needs to conduct a new or supplemental environmental analysis before it can approve the plan of operation to comply with NEPA, as well as other applicable statutory requirements.

Once the APD is approved, an operator can begin drilling. During the drilling process, FS will inspect the construction of the well pad and access road to ensure compliance with the plan of operation. BLM will be responsible for monitoring all drilling and production activities. After drilling is completed and the well site is considered in production, both agencies are required to monitor the site on an annual basis. BLM will be responsible for production equipment and production activities, while FS will focus on surface disturbance and use. When the well site is no longer producing, the reclamation process will start; this is when the operator returns the land to its original state by removing production equipment, re-contouring the site, and planting vegetation.

According to the memorandum of understanding (MOU) with BLM, FS is to enter and maintain information on FS oil and gas activities in BLM's Automated Fluid Minerals Support System (AFMSS).⁷ AFMSS tracks the history of the individual wells, including inspections, spills, and sundry notices.⁸ Although not described in the MOU with BLM, FS uses an in-house data system, the mineral leasing file, to track activities related to parcels proposed for oil and gas activities, also known as the pre-lease nominations.

In 2006, the Office of Inspector General (OIG) completed a survey to determine how FS was managing its oil and gas resources.⁹ At that time, we concluded that FS lacked a national data tracking or retrieval system for managing oil and gas resources, and that the agency was not completing lease authorizations and approving plans of operation in a timely manner. Furthermore, we found FS was not adequately conducting its inspections of well sites. Lastly, we found that FS misrepresented in the 2005 Performance Accountability Report how efficiently

⁶ According to *Notice to Lessee-3A*, operators must report spills that meet specific volumes. While FS is responsible for ensuring the operator remediates the land impacted by the spill, to the extent possible, the operator is financially responsible for remediating the spill.

⁷ According to FS officials, FS has not had access to AFMSS since December 2011 due to some system (firewall) restrictions. They also stated that, although BLM is aware of this limitation, the agency has yet to reinstate FS' access to AFMSS.

⁸ The operators use sundry notices to inform BLM and FS of any changes they plan to make to the well or well site, such as the start of construction for a well site, starting production, altering well casings, and final abandonment.

⁹ Audit 08601-0004-HY: "Forest Service Implementation of the National Energy Policy," Survey closeout letter was sent to FS in September 2006.

it was processing oil and gas applications.¹⁰ OIG planned to follow up on these issues in greater detail immediately; however, due to a Congressional request that took priority, the auditors with the necessary expertise were re-assigned and the follow-up project was delayed.

Objectives

Our objective was to determine whether FS was effectively managing oil and gas resources on national forest system lands, in accordance with applicable laws and regulations. We also determined if FS was processing requests to drill on Federal lands as expeditiously as possible and if FS was cooperating with other agencies, particularly BLM.

¹⁰ In 2005, the Office of Management and Budget performed an assessment of the oil and gas program and reported FS performance measures were incomplete and that the agency was not meeting its targets.

Finding 1: FS Needs To Work with BLM To Complete Implementation of the Energy Policy Act

FS and BLM responded to the Energy Policy Act by developing an MOU for interagency cooperation, but key aspects of the Act have not yet been fully implemented. Most notably, oil and gas lease nominations were not approved expeditiously, and the two agencies were not jointly able to collect and retrieve information on the oil and gas program. Despite the existence of the MOU, most of FS' communication with BLM has been informal—when problems involving interagency cooperation occurred, they were not elevated to the appropriate executive levels within FS because the Washington Office level thought it had the issues under control.¹¹ Additionally, FS officials were not assessing whether they were fully implementing the MOU, a step that would have helped them identify any issues. Due to the incomplete implementation of the MOU, FS and BLM did not take all necessary actions to accelerate and manage the completion of energy projects.

The Energy Policy Act required FS and BLM to coordinate efforts to ensure timely processing of oil and gas lease nominations and plans of operation; eliminate duplicative efforts; apply lease stipulations consistently; and track program data jointly.¹² In response, in April 2006, both agencies signed an MOU to fulfill the law's requirements.¹³ This MOU defined the roles and responsibilities each agency would undertake in order to improve the effectiveness of the program.

We found, however, that not all sections of the MOU were fully implemented. For example, the MOU required that BLM and FS implement a joint data system to track pre-leasing oil and gas activities. However, as we discuss in Finding 2, we found that BLM and FS had not established the joint tracking system. As a result, FS was not able to track how promptly the agency was processing energy proposals on national forest system lands.

The MOU also required FS to work with BLM's program and information technology staff to enhance the capabilities of BLM's data retrieval systems. FS had planned, based on the MOU, to use AFMSS to record the results of its inspections. However, as we discuss in Finding 3, BLM provided FS with read-only access to its systems, which did not allow FS officials at each national forest to update and maintain their own data, and ultimately prevented AFMSS from being used as a shared data system.¹⁴

Even though the MOU provided a mechanism for resolving these sorts of problems, we found that at the Washington Office level, most of FS' communication with BLM was informal. The two agencies conducted monthly conference calls to discuss any issues and increase coordination efforts. Further, the Washington Office staff is on BLM's electronic mailing lists, so that they can be informed of any new issues. However, when the Washington Office staff noticed that

¹¹ The highest level in the Washington Office is the Director, who reports to the executive levels of FS.

¹² Section 363.

¹³ This document was made public through posting on BLM's website.

¹⁴ Although FS has made several informal requests for access, BLM was unable to provide all FS officials edit access to its systems because of firewall issues.

sections of the MOU were not met, they did not send a formal communication to BLM or elevate the issue to a higher authority within FS. Rather, FS chose to informally address the challenges at the Washington Office level, even though the MOU has a dispute resolution clause that provides procedures to resolve any dispute with BLM, because it thought it had the issues under control.

According to a Washington Office official, the MOU greatly improved the coordination between the two agencies because it defined agency roles and responsibilities. Engaging BLM from the beginning of the process has, in the opinion of the Washington Office official, significantly improved the overall efficiency of the program. However, FS prioritized some components of the MOU over others, placing a greater emphasis on expediting the leasing process and completing environmental analyses. Other aspects of the MOU—such as gaining access to BLM’s information systems—were neglected because, according to the FS official, they did not provide as much benefit. FS felt that utilizing a shared information system would be useful for providing external sources with requested information, but would not increase the effectiveness of program operations internally.

Since OIG started this audit, FS has been working to elevate the remaining outstanding issues and create a more formalized method of communicating with BLM by including FS’ Mineral and Geology Management Director in the monthly teleconferences. In addition, FS tried to initiate a meeting between BLM’s Director and FS’ Chief; however, the former Director retired and the meeting never occurred. Such a meeting would be helpful in resolving issues such as access to databases. Other vacancies have created problems for interagency cooperation, hindering FS’ ability to elevate issues to the proper level.

Although we recognize that problems of this nature will always cause delays, FS should increase its efforts to coordinate with BLM on all aspects outlined in the MOU to meet the intent of the Energy Policy Act. Such coordination should reduce the amount of time that the agencies require to complete the necessary tasks for oil and gas operations

Recommendation 1

Establish regular formal meetings with BLM to discuss the status of the oil and gas program and elevate issues that are hindering FS’ ability to effectively manage the program.

Agency Response

FS generally concurs with this audit recommendation. Beginning in early 2012, FS commenced monthly conference calls with BLM. These calls, scheduled for the second Monday of each month, provide the opportunity for FS to discuss the status of the oil and gas program and issues where better coordination and/or communication can improve management of the FS oil and gas program. Although participation in these calls is principally mid-level program management of both agencies, they have involved more senior management, signaling commitment by both agencies for these to be a productive forum for resolving issues. In addition, the FS Director of Minerals & Geology will conduct monthly meetings with the BLM Assistant Director, Minerals & Realty Management, to further discuss issues relevant to management of the oil and gas program. The proposed action will be completed by April 1, 2013.

OIG Position

We accept management decision for this recommendation.

Recommendation 2

Establish a process to assess how well FS is following the MOU.

Agency Response

FS generally concurs with this audit recommendation. The FS-BLM MOU anticipated such a process in Section VII where the agencies committed to the formation of a team to define measures of success for meeting the goals of the MOU. A variety of programmatic performance measure indicators exist within both FS and BLM; however there is no interagency effort to analyze these indicators to assess how well agency cooperative efforts are reducing leasing and permitting backlogs, improving processing timeframes, and ensuring surface compliance. FS will formally request in writing to the BLM that an interagency team be created to address the commitment contained in Section VII of the MOU. The proposed action will be completed by February 1, 2014.

OIG Position

We accept management decision for this recommendation.

Finding 2: FS Had Not Approved Oil and Gas Parcels in a Timely Manner

FS could not provide essential data for determining how many parcels exceeded its deadlines for approving parcels nominated for oil and gas leases, but OIG determined that the agency regularly missed those deadlines.¹⁵ This occurred because, although FS uses an internal system to track information related to pre-leasing activities, it did not track the number of days for a nominated parcel to be processed in the system or why parcels had not been processed within prescribed time periods.¹⁶ Unless FS improves the timeliness of processing lease nominations, the agency could be foregoing potential revenue for the Federal Government and preventing or delaying the efforts of the private sector to provide energy to the public.

The Energy Policy Act requires agencies to process oil and gas leases and applications for permits to drill in a timely manner. Executive Order 13212 reinforces this requirement, stating that agencies shall expedite the review of permits or take other actions, as necessary, to accelerate the completion of such projects, while maintaining safety, public health, and environmental protections. The agencies shall take such actions to the extent permitted by law and regulation, and where appropriate.¹⁷

Given the Congressional and Presidential calls for timeliness, we expected to find that BLM and FS had established joint controls and tracking systems to manage the nominations they received. However, we found that this was not the case. FS officials explained to us that those interested in leasing a parcel submitted all parcel nominations to the BLM State offices.¹⁸ These offices would then conduct research to determine which agency was responsible for managing the parcel in question. If FS was identified as the managing agency, its staff at the national forests were asked to state whether it would be appropriate to offer the land for lease or not. National forests had up to 60 days to provide BLM with lease stipulations and documentation of NEPA compliance; especially if, prior to the nomination, the land had been identified in the land-use plan or through a separate leasing analysis decision, as available for oil and gas activities. If land had not been included in their land-use plan or leasing decision, national forests were allowed 18 months to perform an environmental analysis and determine availability of the land.

According to BLM officials, these nominations were not tracked in any of BLM's official systems because they had not developed a module to perform that task. As a result, the State offices were allowed to choose how they would, individually, manage and track these nominations.¹⁹ Since activities were not officially tracked by BLM, and FS officials wanted to record the proposals received, FS decided to use an internal system to track the nominations

¹⁵ A lease nomination should be processed within 60 days of receiving the nomination if the national forest determined land availability prior to the nomination. If it needs to determine land availability, the national forest has up to 18 months to make a final decision.

¹⁶ FS uses the mineral leasing file system to track all information from the point when a piece of land is proposed for development until the issuance of lease.

¹⁷ Executive Order 13212, dated May 18, 2001.

¹⁸ An interested party includes any individual, organization, or member of the oil and gas industry that has expressed interest in leasing lands for future oil and gas development.

¹⁹ They used various methods, including preliminary lists and excel spreadsheets.

received from BLM.²⁰ We obtained data from FS' internal system and determined that there were 1,881 parcels awaiting a final decision, of which 69 were identified as recent nominations.²¹

When we spoke to officials at the Washington Office about how this information was gathered, they explained that three land law examiners were responsible for recording data, such as the nomination identification number, region, project code, and treasury code. In addition, the system had fields to track information regarding when the nomination was received by the national forest and when the final decision was sent to BLM. However, we found that these reports did not allow FS to determine how long the nominations had been pending. While dates were tracked, the system only included information until the nomination was forwarded to BLM. Once received, BLM has to make its independent decision²² before the parcel can be offered at auction. FS is unable to create a formula to determine how long it takes to offer a parcel for lease without the date of BLM's decision. This computation is necessary for FS to determine whether the parcel was approved timely.

We asked Washington Office officials how they determined whether parcels were being approved within prescribed timeframes, since the system did not provide the information needed to determine timeliness. They stated that they were not monitoring how long it took them to process parcels, and that they relied on what the individual forests reported. According to Washington Office managers, they would ask the land law examiners to download the information, when needed, because the data were recorded in separate regional systems to which they lacked access. Washington Office officials also relied on what the forests reported during data calls or on their performance reports, since the number of nominations processed within and outside timeframes were two of the agency's performance measures.²³

Moreover, when we asked Washington Office officials to explain why parcels were not being processed expeditiously, they explained that some authorizations were delayed because the national forests had not completed environmental analyses, BLM had not issued its independent decision, or the forests' decisions were being challenged in court.²⁴ We asked them to provide specific details about what was delaying the approval of the 1,881 pending parcels, but they stated that we would have to ask each forest to explain the delays, since that information was not recorded in any system.

Based on the list of pending parcels we collected from 44 national forests, we determined that the approval for 1,881 nominations was delayed for various reasons. We found that

²⁰ This system existed prior to the Energy Policy Act mandate to join systems. FS employees keep records on their computer.

²¹ Data as of April 6, 2012. Due to insufficient data in the system, we were unable to validate whether the recent nominations were, in fact, processed within prescribed timeframes.

²² In accordance with *The Gold Book: Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development; Fourth Edition*—Revised 2007, FS and BLM can conduct a joint environmental analysis; however, each agency must issue its own decision.

²³ See Finding 5 regarding concerns with how FS assesses oil and gas activities.

²⁴ BLM serves as a cooperating agency for environmental analyses for oil and gas leasing availability, especially with respect to down-hole operations and related ground water issues. In addition, BLM coordinates with FS on the signing and release of decision documents.

853 nominations were not processed because the forest had not taken some type of action, such as an environmental analysis.²⁵ We also identified 883 nominations that had not been processed because BLM had not yet made an independent leasing decision, which is required before FS land can be auctioned. We also identified 54 nominations where environmental decisions had been challenged and FS was waiting for a judicial decision. Finally, in 22 instances, the agency was waiting for Congress to enact legislation, such as the Colorado Roadless Rule, before it could proceed.²⁶

By not processing these nominations as expeditiously as possible, FS may be causing the Federal Government to forego revenue or prevent or delay the efforts of the private sector to provide energy to the public. When nominated parcels are successfully auctioned, the leases generate fees. This income increases when operators begin producing oil and gas, since the Federal Government can collect royalties. We asked FS whether there were instances when delaying the authorization of a parcel had resulted in loss of revenue or prevented the efforts of the private sector to provide energy to the public. Washington Office officials stated that this information was not available because they were not tracking such events. They added that, if an interested party complained about delays in the approval process of a specific parcel, the forest would address that particular situation by taking actions needed to remedy processing delays.

Agency officials agreed that nominated parcels were not being processed in a timely manner because of the many challenges they face during the permitting process. However, they disagreed that they lacked adequate oversight of the approval process because they could query units when they needed to obtain information. However, OIG concluded that FS lacks access to the essential data relating to how these nominations are being processed and that this lack of information interferes with the agency's ability to expedite the authorization of parcels

Recommendation 3

Establish procedures to require managers to review the regions' mineral leasing files on a regular basis for pre-lease activities and take appropriate action, as needed, to assist their units in expediting the timely approval or denial of the nominated parcels.

Agency Response

FS generally concurs with this audit recommendation. FS will make it a priority to update the existing regional mineral leasing file databases in order to generate a report that will: identify the number of requests (lease offers and expressions of interest) for leasing NFS lands; the acreage associated with each request; and track critical dates associated with individual nominations. FS anticipates providing this initial report to Regional Foresters/Forest and Grassland Supervisors, requesting they coordinate with their respective BLM State offices to prioritize and schedule analyses of available lands in accordance with 36 CFR 102(b). Regions should use the report

²⁵ Some officials at national forests stated they lacked the staffing resources needed to complete the environmental assessments, while others stated they had to divert resources to other forest priorities.

²⁶ The 1,881 parcels that are awaiting a final decision also include 69 nominations that FS received as of April 6, 2012.

and the resultant prioritization/schedule development as the basis for requesting program funding to accomplish the highest priority analyses within a specified timeframe. Transmittal of the lease nomination report and request for the year's priority analyses would be timed to coincide with the budget cycle. The proposed action will be completed by October 30, 2013.

OIG Position

We accept management decision for this recommendation.

Recommendation 4

Coordinate with BLM and establish a plan to include pre-leasing activities in the proposed BLM system to track the status of the nominated parcels.

Agency Response

FS generally concurs with this audit recommendation. The agency will submit to BLM a written request for it to supplement its Legacy Rehost (LR2000) database by developing a national automated tracking system of nominations for oil and gas leasing. FS will ask that the proposed tracking system be developed with the capability to identify nominated lands on NFS lands by forest unit, as well as relevant process dates. Given the uncertain timeframe associated with the development of a national system, FS is in the process of developing a transitional leasable minerals database which will replace the separate regional Mineral Leasing File databases and will include the capability to track the status of lease nominations. The proposed action will be completed by December 31, 2013.

OIG Position

We accept management decision for this recommendation.

Recommendation 5

In the interim, modify and update the regions' current existing mineral leasing file system to track the number of days nominated parcels are awaiting approval in the system and the cause for delays.

Agency Response

FS generally concurs with this audit recommendation. FS stated that on October 3, 2012, the Mineral Leasing File databases for Regions 1 through 4 were modified to track the number of days nominated parcels are pending approval. The cause for delays in processing parcels was already being tracked and is updated as new information becomes available. For other Regions, FS will utilize an Excel spreadsheet to track the number of days nominated parcels are pending approval as well as the cause for delays. The proposed action will be completed by April 1, 2013.

OIG Position

We accept management decision for this recommendation.

Finding 3: FS Could Not Validate It Had Inspected Well Sites

FS is required by law to inspect annually its leases that are producing oil and gas, but we found that Washington Office officials could not validate whether the leases were being inspected. This occurred because FS was not using BLM's AFMSS information system to track these inspections, as it had agreed to in the MOU. Instead, the Washington Office allowed the national forests to decide how they would track the inspections they performed, which resulted in decentralized data.²⁷ Washington Office officials explained that they were not enforcing the use of BLM's system because most of FS' staff did not have proper access to the system²⁸ or were not trained to use it, and because BLM's system did not meet the agency's needs.²⁹ However, unless FS performs these inspections regularly—and tracks them effectively—missed inspections could result in environmental damage.

The Energy Policy Act requires BLM and FS to improve inspections and enforce oil and gas activities.³⁰ FS established a policy requiring that all leaseholds producing or expected to produce significant quantities of oil or gas in any year, or having a history of noncompliance, be inspected for surface compliance at least once a year.³¹ According to the MOU with BLM, FS was to use BLM's AFMSS to record the results of these inspections.

We found, however, that FS was not following the MOU. Washington Office officials did not require FS employees to use AFMSS because most forest-level employees did not have proper access to the system and were not trained to use it. BLM provided FS with read-only access to the system, which did not enable forests to update and maintain data. In addition, FS had trouble gaining access to the BLM system, due to firewall restrictions.

When we spoke to the two agencies about these problems, FS officials stated that they had informally requested access to the system on numerous occasions, but BLM had been unresponsive to their requests.³² We concluded FS officials should have formalized their request, once they realized that their informal efforts were unproductive. BLM officials informed us that they had addressed the firewall issues and could make changes to AFMSS, since it was an active system continuously undergoing enhancements to improve functionality.³³ BLM officials also stated that they were willing to work with FS staff to establish the necessary safeguards and enable edit access to their system.

²⁷ Based on our review of a data call that occurred on December 19, 2011, we determined at least ten national forests track inspection activities in a local database or on a spreadsheet, which were accessible only at the local office.

²⁸ FS employees were generally granted read only access; however, there were six national forests that had edit access, some of which were located in the same office space as BLM employees.

²⁹ BLM tracks information based on States, since that is the land denomination it uses to manage its lands; FS tracks its information based on national forests and districts.

³⁰ Energy Policy Act of 2005: Public Law 109-58 Subtitle F, Section 362 (c).

³¹ *The Gold Book: Surface Operating Standards and Guidelines for Oil and Gas Exploration and Development; Fourth Edition*—Revised 2007.

³² FS had requested access through telephone calls or email communications.

³³ BLM is in the planning stages of developing a new system to replace AFMSS.

Since FS did not have functional access to BLM's system, Washington Office officials allowed national forests to continue maintaining inspection data as they always had, with the result that data were scattered across various systems of records. To determine methods of tracking and whether forests were inspecting sites regularly, we requested data from all oil and gas producing forests.³⁴ From the data, we determined that FS tracked inspections of sites with 13 different internal systems of records.³⁵ Due to this decentralization, the Washington Office was unable to run nationwide reports that would determine whether well sites had been inspected. Further, we found there were difficulties in retrieving consistent data from the forests, since they track different types of information and categorize inspections differently. Ultimately, because of the decentralization in systems and inconsistency in data types, FS could not determine the total number of well sites that it should inspect annually.

Using a centralized database, such as AFMSS, should provide significant benefits to FS in administering Federal oil and gas leases and related operations. At present, Washington Office officials cannot conduct meaningful data calls; instead, they rely on the forests to notify them of any difficulties in completing inspections. Without access to critical data, such as records related to the inspection of oil and gas well sites, Washington Office officials cannot make appropriate decisions to improve the oil and gas program. For example, without this knowledge, the agency could not validate requests from local units needing additional resources to accomplish the work. At one national forest—where we completed a more detailed review—39 of 845 inspections were not completed because the forest lacked sufficient staff to perform them. This same forest reported that it had 84 spills in 2011; one of which is discussed in further detail in Finding 4.³⁶ Even though the 39 missed inspections represent a small percentage of inspections that FS did not conduct for this forest, in our judgment, environmental damage could be caused from just one well site that was not inspected.

Despite the establishment of the MOU detailing how the two agencies would work together to manage this data, FS did not address the topic. We found that there were significant ways that AFMSS did not fully accommodate FS' needs. For example, AFMSS lists inspections by State, while FS employees needed to use fields, such as national forest or district. Those fields would allow FS to run queries that would provide oil and gas information specific to a forest. AFMSS also lacked standardized reports that would allow FS managers to provide adequate oversight over the program. For example, a report listing the well sites within a national forest requiring annual inspections would be helpful. FS officials stated that BLM was unwilling to add additional fields into AFMSS because it was an aging system; however, BLM officials stated that changes were not made because FS had not requested them. They confirmed that they were planning to replace the 15-year old system, but that they were willing to make any changes FS needed in both the current and the new system. FS officials did discuss with BLM the limitations of AFMSS; however, despite numerous informal attempts, BLM did not make the requested changes, nor did FS elevate the issue or insist formally that changes be made. Finally, we noted that FS had not utilized the dispute resolution clause in the MOU. FS officials stated

³⁴ There were 65 forests with authorized leases—39 of those forests currently have oil and gas producing sites.

³⁵ Based on our review of data obtained on December 19, 2011, we determined at least 10 national forests track inspections in a local database or excel spreadsheet. Other forests maintained records of the inspections in well files, AFMSS, or workplans.

³⁶ This forest reported 83 spills in 2010.

they have never utilized the procedures described in the MOU to resolve any issues with BLM, but did not provide a reason why. Had FS officials utilized the procedures set forth in the clause, they would have triggered appropriate action from BLM.

We believe it is imperative that FS coordinate with BLM during all phases of the development and implementation of BLM's new system, to ensure that it includes the fields and reports that FS needs to manage the oil and gas program on its lands. As a result of our concerns, FS officials stated that they have made efforts to revisit the access issue and plan to address it formally. Both agencies have stated they would be willing to collaborate during the planning and implementation of a new database. BLM was willing to work with FS to obtain the necessary safeguards to gain access to its systems. Since the audit began, FS and BLM have been making efforts to coordinate and resolve access issues.

At this time, we cannot conclude whether the inspections FS performed were appropriate, because each unit followed different methods and collected different data. Once FS requires its employees to use AFMSS, it will force all of its units to consistently track inspections

Recommendation 6

Utilize the dispute resolution procedures, as written in the MOU, to gain access to BLM's AFMSS.

Agency Response

FS generally concurs with this audit recommendation. The agency views the problems in gaining access to the AFMSS to be more of a communication/technical issue than a dispute. FS and BLM staffs have been informally troubleshooting means to resolve lack of access to the BLM database, but have not resulted in the desired outcome. Regardless, FS acknowledges that the issue needs to be elevated to allow management to consider enlisting additional expertise and/or resources in hopes of resolving the problem. FS will initiate the first step of the MOU's dispute resolution procedure, whereby FS will provide to BLM, a written request to: place a priority on providing FS personnel with immediate read-access to AFMSS; incorporate new data elements into the current and future AFMSS data structure to allow information to be queried by Forest and Ranger District; enter into discussions on how FS employees can obtain edit capabilities for AFMSS data entry to record information related to FS surface management responsibilities; and coordinate on developing an appropriate training program for FS personnel on the proper use and maintenance of the AFMSS database. The proposed action will be completed by July 1, 2013.

OIG Position

We accept management decision for this recommendation.

Recommendation 7

Enforce the use of AFMSS by FS staff to record results of well site inspections.

Agency Response

FS generally concurs with this audit recommendation. The agency will not be in a position to “enforce” the use of AFMSS to record FS inspection until BLM provides FS employees with write/edit-access. Per the response to OIG Recommendation 6, FS will formally request in writing to BLM that FS and BLM enter into discussion on the use and maintenance of AFMSS for recording FS surface inspections. BLM’s response to the aforementioned request will dictate FS ability to enforce AFMSS per the OIG recommendation. The proposed action will be completed by July 1, 2013.

OIG Position

We accept management decision for this recommendation.

Recommendation 8

Coordinate with BLM to provide FS staff with proper access (e.g., edit access) to AFMSS to allow staff to enter and maintain information, as well as create reports related to its oil and gas responsibilities.

Agency Response

FS generally concurs with this audit recommendation. FS will submit a formal request to BLM to receive AFMSS edit access to directly input oil and gas inspection information on NFS land. The proposed action will be completed by July 1, 2013.

OIG Position

We accept management decision for this recommendation.

Recommendation 9

Request that BLM modify AFMSS to incorporate fields, such as national forest, district sites, and others that would facilitate FS retrieval of information.

Agency Response

FS generally concurs with this audit recommendation. Per response to OIG Recommendation 6, in its written request to BLM regarding the current and anticipated FS needs for the use of AFMSS, FS will include its desire for the capability to retrieve information by FS unit. In addition to advocating BLM incorporate this information into the current AFMSS database, FS is

also working with BLM to incorporate this capability into a revision of the AFMSS system software, which is currently under development by the BLM. The proposed action will be completed by July 1, 2013.

OIG Position

We accept management decision for this recommendation.

Recommendation 10

Coordinate with BLM to implement a training plan for all FS officials that will have access to AFMSS.

Agency Response

FS generally concurs with this audit recommendation. Per response to OIG Recommendation 6, in its written request to BLM regarding the current and anticipated FS needs for the use of AFMSS, FS will include a request to develop an appropriate training program for involved FS personnel. FS recognizes that BLM's response to other aspects of the FS request will have a bearing on the extent of the training plan needed for FS employees. Depending upon the scheduled implementation of BLM's update to the AFMSS system, it may be prudent to delay training until the new system is implemented. The proposed action will be completed by July 1, 2013.

OIG Position

We accept management decision for this recommendation.

Recommendation 11

Ensure program officials utilize the dispute resolution procedures, as written in the MOU, when BLM is not responsive to FS requests.

Agency Response

FS generally concurs with this audit recommendation. The agency agrees to implement the MOU's dispute resolution procedures as needed. Per the response to OIG Recommendation 2, FS will work with BLM on establishing a team to define success measures for meeting the goals of the MOU. A component of this team's effort would be to emphasize and evaluate use of the dispute resolution procedures of the MOU. The proposed action will be completed by August 15, 2013.

OIG Position

We accept management decision for this recommendation.

Recommendation 12

Coordinate with BLM to participate in the development and enhancement of any future national tracking system.

Agency Response

FS generally concurs with this audit recommendation. The agency commits to this coordination as future tracking systems are proposed. FS is currently coordinating with BLM to incorporate FS informational needs into the proposed successor to the current AFMSS database. A member of the FS Minerals and Geology staff has been a regular participant in meetings held by BLM's database development group. The proposed action will be completed by February 15, 2013.

OIG Position

We accept management decision for this recommendation.

Finding 4: FS Needs To Improve Its Readiness To Respond to Spills on National Forest Land

One of the dangers of permitting oil and gas activity on national forest lands is that spills may breach containment areas and cause environmental damage.³⁷ We found, however, that FS does not require operators to submit spill plans during the application process to ensure operators are prepared to quickly address any spills outside required containment areas.³⁸ Moreover, even when the operator voluntarily submits a spill plan to FS, the agency does not consult with the EPA to ensure its adequacy. FS does not perform these reviews because it regards spills outside of containment dikes as uncommon and because the responsibility for regulating spill plans belongs to EPA.³⁹ Without a careful review of these spill plans to ensure adequacy, national forest land is vulnerable to environmental damage. In the event of a major spill, the water supply, public safety, and the environment could be jeopardized.

According to the National Forest Management Act of 1976, FS has a responsibility to maintain and protect forest lands, including soil, water, and air resources.⁴⁰ To do so, FS must protect and manage NFS lands so that they best demonstrate the multiple use concept; allowing hunting, grazing, recreation, and oil and gas activities concurrently. Managing spills poses a challenge because of the potential damage to soil, water, and air resources on forest lands.

As a first preventive measure, FS instructed national forests to follow the Federal Onshore Oil and Gas Order Number 1 when approving oil and gas operations.⁴¹ Among other things, this order states that operators must submit a plan of operation describing the proposed means for containment and disposal of all waste materials, and how the operators will protect surface resources, groundwater, and other environmental components. FS also requires operators to address all surface uses and containments to prevent a risk to the environment. According to this order, FS staff will review the safety and design features of the containments to be included in the plan of operation so that if a spill occurs, it can be contained in place, without further damage to soil, water, and air resources. However, since there are no guarantees that spills will not exceed these containment areas, operators are to follow the *Notice to Lessee-3A* to report spills on forest lands.⁴² The notice explains what volumes are reportable and how promptly notification must occur.

When we asked Washington Office officials how many spills were reported on forest lands in 2010 and 2011, they informed us that spills were rare, but they could not provide any evidence to validate their statement. Next, we attempted to obtain the information in AFMSS, but since

³⁷ Secondary containments are areas such as dikes or ditches, which are utilized for safety and meant to prevent or minimize the potential for spills.

³⁸ Spill Prevention, Control, and Countermeasure Regulation, 40 CFR Part 112. The spill plan describes oil handling operations, spill prevention practices, drainage controls, and the personnel, equipment, and resources at the facility that are used to prevent oil spills from reaching navigable waters or adjoining shorelines.

³⁹ Spill plans are to be maintained by the operator and only submitted for review to EPA when requested.

⁴⁰ National Forest Management Act of 1976, October 22, 1976, 16 U.S.C. §§ 1600-1614.

⁴¹ Implemented by FS and BLM, last revised March 7, 2007.

⁴² *The Notice to Lessee-3A* was issued January 5, 2006, by the Department of the Interior's BLM, and it is followed by all Federal agencies overseeing oil and gas activities. It requires operators to report all spills to BLM.

information was not recorded by forests, it was impossible to use this information system to obtain the data.⁴³ Finally, we asked the national forests to report the number of spills in the last 2 years. Based on the information we received, we concluded that there were at least 96 spills in fiscal year (FY) 2010 and 99 spills in FY 2011.⁴⁴

According to FS staff, operators are responsible for containing and managing these spills, using their spill plans. In contrast, they stated that FS was responsible for ensuring operators responded in a timely manner to remediate the spill and restore the land to its previous condition. We asked Washington Office officials if they reviewed the spill plans to ensure that operators were prepared to manage and control major spills. They stated that they did not request spill plans because they assumed that operators would have such plans in place, since EPA requires them. Further, they stated that they do not review the spill plans for adequacy if they are submitted because that responsibility belongs to EPA.⁴⁵ Although OIG recognizes that EPA has the regulatory authority over the operators' spill plans, the land and resources at risk if the operators are unprepared belong to FS.

Washington Office officials stated that requiring operators to submit spill plans and reviewing the adequacy and sufficiency of those plans would duplicate EPA's work and be unnecessary, especially since major spills are rare. OIG disagrees—we believe that duplicative work, if there were any, would improve an operator's readiness to respond to major spills.

Certainly, such major spills do occur. For example, in April 2011, an operator inadvertently allowed saltwater and oil to be released from the secondary containment area. The leaked fluids were carried with rain and melting snow for 1 mile to adjacent Federal land⁴⁶ and a lake. A small amount of fluid soaked into the ground on FS lands; however, since the ground and lake were frozen, there was minimal damage to the environment. In this instance, the operator was able to respond and manage the spill, because it had a plan in place and the ground and lake were frozen. If the operator did not have an adequate plan in place or if the weather had been warmer, the environmental damage could have been much more serious.

Since it is FS' responsibility to protect national forest land and resources, OIG maintains that the agency should require its field units to develop spill response plans for all NFS lands that have oil and/or gas activities.

⁴³ BLM tracks spills reported in AFMSS. We found that the Washington Office was not using AFMSS to monitor spills, nor were forests required to report such information to them.

⁴⁴ This information was provided to us in a data call, dated December 19, 2011. However, we were unable to validate whether any of these spills escaped containment or if these represented all spills during the period audited. Additionally, we were unable to validate whether forests provided spill data for quantities less than what is required to be reported in the *Notice to Lessee-3A*.

⁴⁵ According to BLM officials, they do not require or review the adequacy of spill plans. When we reviewed 40 CFR Part 112, Spill Prevention, Control, and Countermeasure Regulation, we found EPA required operators to have a spill plan but only reviewed the plans if there were any concerns about the operator.

⁴⁶ This land fell under the jurisdiction of the Army Corps of Engineers.

Recommendation 13

Require field units to develop spill response plans for all NFS lands that have oil and/or gas activities.

Agency Response

FS generally concurs with this audit recommendation. Forest Service Manual Section 2165 – Response to Hazardous Material Releases contains guidance for each forest unit to develop a response plan for reporting and responding to releases of hazardous material, including discharges of oil. FS will issue a letter to Regional Foresters of Regions with oil and gas operations reiterating the guidance contained in the Manual Section to demonstrate compliance with this recommendation. The proposed action will be completed by April 30, 2013.

OIG Position

We accept management decision for this recommendation.

Recommendation 14

Issue guidance to field units for developing spill response plans for all national forest system lands that have oil and/or gas activities.

Agency Response

FS generally concurs with this audit recommendation. Forest Service Manual Section 2165 – Response to Hazardous Material Releases contains guidance for each forest unit to develop a response plan for reporting and responding to releases of hazardous material, including discharges of oil. FS will issue a letter to Regional Foresters of Regions with oil and gas operations reiterating the guidance contained in the Manual Section to demonstrate compliance with this recommendation. The proposed action will be completed by April 30, 2013.

OIG Position

We accept management decision for this recommendation.

Finding 5: FS Needs To Improve Its Performance Measures for the Oil and Gas Management Program

Although FS established five performance measures to assess the work done in the Oil and Gas Management Program—the number of leases and plans of operation processed, the number of energy proposals processed within and outside prescribed timeframes, and the number of inspections conducted—those measures did not clearly record the time it took the agency to accomplish key program activities.⁴⁷ FS officials realized that the performance measures were not clear, but they did not consider improving them a priority. As a result, Washington Office officials were not receiving the data they needed to make appropriate program decisions and were unable to determine which program activities were not being performed timely. For example, when FS reported in 2010 that it did not meet the timeframes prescribed to process energy mineral proposals 90 percent of the time, it was unclear which proposals were not approved timely: lease nominations and/or plans of operation.⁴⁸

The Government Performance and Results Modernization Act of 2010 requires agencies to establish a balanced set of performance indicators to be used in measuring or assessing progress in a program.⁴⁹

When we discussed this finding with Washington Office officials, they stated that they often missed the deadline for lease nominations because interest groups would often challenge their decisions in court, which delayed nominations for unpredictably long periods of time.⁵⁰

However, because the performance measure actually combined lease nominations and plans of operation, it appeared that all energy proposals were not approved timely.⁵¹ When we asked FS officials why they combined different activities within some of the performance measures, they stated that the agency was trying to limit the number of measures it tracked. By using the same performance measure for different oil and gas activities, OIG maintains that FS rendered those measures ineffective for assessing the effectiveness of its oil and gas program. Combining the activities hid the areas in which FS efforts in the program were insufficient.

Washington Office officials agreed that combining measures rendered the measures less useful than they should be. They also stated that they were interested in removing the leasing portion from the performance measure because the final decision was often outside their control, due to litigation or BLM's delays in issuing its own independent decision. They also stated that other

⁴⁷ Performance measures are outcome-based indicators or milestones that are used in assessing progress towards goals.

⁴⁸ FS considers both lease nominations and plans of operation to be energy proposals. A lease nomination is a request from an interested party that a parcel of land be considered for oil and gas leasing activities. A plan of operation is submitted when an operator requests permission to start drilling.

⁴⁹ Government Performance and Results Modernization Act of 2010, January 4, 2011.

⁵⁰ Since plans of operation were approved after leases are authorized, FS is able to meet the performance measure more often because it is not challenged as often by third parties.

⁵¹ For example, lease nominations should be processed within 60 days of submission or within 18 months for nominations requiring land availability decisions. A plan of operation should be processed within 180 days of submission or within 18 months when an Environmental Impact Statement has not yet been completed.

measures may need to be revised to properly reflect FS activities. However, they explained that they had not made this a top program priority.

In June 2012, an Associate Deputy Chief approved revisions to the program's performance measures. While we commend FS' efforts to revise its performance measures to address the issues we raised, we found that the new measures continued to be unclear. For example, FS is now combining results from oil, gas, and coal activities; in the past, the measures were focused on oil and gas activities alone. Furthermore, the definition FS uses in one of the performance measures may lead to overstating accomplishments. The measure requires a national forest to record the review of plans of operation and the review of bond adequacy as part of the measure. Based on our review, these activities should be recorded only once because verifying bond requirements is included in the review of a plan of operation.

OIG concludes that FS needs to revisit all of its program performance measures pertaining to oil and gas management and ensure that they are providing information that usefully assesses program operations.

Recommendation 15

Revise all of the performance measures used to assess and measure oil and gas activities, as needed, to accurately depict work completed.

Agency Response

FS generally concurs with this audit recommendation. The agency is developing its Strategic Plan for 2013—2018. Performance measures will be formulated to demonstrate achievement of the agency goals and objectives contained in the final Strategic Plan, while minimizing the number of measures tracked. One method to accomplish this has been to group like accomplishments by area of emphasis. As an example from the 2007—2012 Strategic Plan, the objective "To help meet the nation's energy needs" generated a performance measure that grouped reporting of accomplishments within all energy commodities (i.e., oil and gas, geothermal, and coal). Although FS is proposing to continue this grouping approach in its performance measures, the final agency program direction for Minerals & Geology requests that field units provide a separate report of the numbers of surface use plans of operation process for oil and gas. While the actual number of leases and plans processed is indirectly indicative of processing efficiency (i.e., a higher number suggests increased efficiency), FS acknowledges OIG's concerns about processing timeframes. FS is committed to strive for continual improvement in processing efficiency, but believes the current performance measure based upon arbitrary timeframes is not a proper indicator. Instead, FS proposes to track leasing and permit processing times in the various program databases and use average processing times as a managerial tool for monitoring processing efficiency from year to year. The proposed action will be completed by October 30, 2013.

OIG Position

We accept management decision for this recommendation.

Scope and Methodology

We performed our fieldwork from July 2011 through July 2012 at FS' Washington Office and two regional offices located in Golden, Colorado, and Missoula, Montana. We conducted additional fieldwork in Dickinson, North Dakota; Elkins, West Virginia; Glenwood Springs, Colorado; Silt, Colorado; and Watford City, North Dakota.⁵²

We reviewed oil and gas activities for FYs 2010 and 2011. During this period, FS had 65 national forests with leases authorizing oil and gas operations in national forest lands; of these, only 39 had producing oil and gas sites.⁵³ We evaluated whether FS was effectively managing oil and gas activities on national forest system lands. To accomplish our objective we:

- Interviewed appropriate FS officials at each level of the agency: Washington Office, regional, and national forest;
- Reviewed laws, regulations, policies, and procedures related to the management of gas and oil resources, such as the Mineral Leasing Act of 1920, Mineral Leasing Act for Acquired Lands 1947, Energy Policy Act of 2005, and Federal Onshore Oil and Gas Order Number 1;
- Reviewed MOUs to determine whether FS was effectively collaborating with other agencies to increase efficiency in the management of oil and gas producing activities;
- Interviewed BLM officials to determine how well FS and BLM were collaborating and implementing the Energy Policy Act;
- Reviewed and analyzed 5 leasing files, along with related 19 well files, to determine compliance with geophysical exploration, permit approval package, inspections, and reclamation requirements;
- Visited 5 of 83 producing well pads in Glenwood Springs, Colorado, to verify compliance with the leasing analysis decision, additional stipulations on the lease, and the Application for Permit to Drill;
- Visited a well site constructed in which drilling had not been started, as well as a site that had been reclaimed after production ended;
- Reviewed deeds to determine FS' authority and rights when mineral rights located in Federal lands were privately owned;
- Reviewed data recorded in the leasing file to determine whether lease nominations and plans of operation were approved timely;
- Analyzed the performance measures reported to determine whether FS met its performance measure goals;
- Analyzed spills data collected from the forests to determine the number and volume of spills on forest lands;

⁵² Due to budget constraints, we did not visit Missoula, Montana; Dickinson, North Dakota; or Watford City, North Dakota; we conducted our fieldwork through teleconferences.

⁵³ FS was unable to provide an exact number of well sites because the information could not be extracted easily from BLM's system. A national forest can have authorized leases without any drilled or producing wells.

- Analyzed inspection data collected from the forests to determine if the national forests were conducting required annual inspections.

We judgmentally selected a sample of 3 national forests from the 65 with leases authorizing oil and gas activities. Our sample was based on a number of factors, including the size of operations, potential for adverse environmental impact, and the complexity of operations.

According to a MOU with BLM, FS should be recording its oil and gas activities in the following BLM systems: the National Integrated Land System, the National Oil and Gas Lease Sale System, AFMSS, and the Legacy Rehost System 2000. All of these information technology (IT) systems were created and maintained by BLM. We did not review, analyze, or verify the controls or oversight of these IT systems and make no representation of the adequacy of the systems or the information generated from them.⁵⁴

We conducted this performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform our audit to obtain sufficient and appropriate evidence to provide a reasonable basis for our findings and conclusions, based on our audit objectives. We believe that the evidence we obtained provides a reasonable basis for our findings.

⁵⁴ FS uses the mineral leasing file to track oil and gas pre-leasing activities. This is not an IT system; it is an access database. We did not review, analyze, or verify controls over this program.

Abbreviations

AFMSS	Automated Fluid Minerals Support System
APD.....	Application for Permit to Drill
BLM.....	Bureau of Land Management
EPA.....	Environmental Protection Agency
FS	Forest Service
FY	Fiscal Year
IT.....	Information Technology
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act of 1969
NFS	National Forest System
OIG	Office of Inspector General

**USDA'S
FOREST SERVICE'S
RESPONSE TO AUDIT REPORT**



Forest
Service

Washington
Office

1400 Independence Avenue, SW
Washington, DC 20250

File Code: 1430

Date: February 13, 2013

Route To:

Subject: Response to Office of the Inspector General Official Draft Report Number 08601-0001-21, "Management of Oil and Gas Resources on National Forest System Land"

To: Gil Harden, Assistant Inspector General for Audit, Office of Inspector General, USDA

The Forest Service has reviewed the Office of the Inspector General (OIG) draft Audit Report No. 08601-0001-21, Management of Oil and Gas Resources on National Forest System Land. The agency appreciates OIG's review of its Oil and Gas Program. The Forest Service generally concurs with the findings and recommendations and the need to address these issues.

Many of OIG's recommendations relate to the Forest Service coordinating with the Bureau of Land Management on development of joint national automated systems to track federal oil and gas lease nominations, operating permit processing, active wells and facilities, and inspections on National Forest System lands. We recognize the value of national tracking systems in managing a large and complex program as oil and gas. Modifying existing BLM automated systems appear to be the most prudent approach to accomplish the associated OIG recommendations. While we have no control over the priority the BLM places upon adopting changes to its systems, we will continue our partnership with the BLM to jointly develop function data tracking and retrieval systems that meet both agencies program management needs.

The enclosed response outlines our proposed actions for each of the audit recommendations. Please contact Thelma Strong, Chief Financial Officer, at (202) 205-1321 or tstrong@fs.fed.us with any questions.

/s/ Thomas L. Tidwell
THOMAS L. TIDWELL
Chief

Enclosures

cc: Tracy Parker
Robert Harper
Sandy T Coleman
Erica Y Banegas



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USDA Forest Service (FS)

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Office of Inspector General (OIG) Audit Report No. 08601-0001-21
Management of Oil and Gas Resources on National Forest System Land
Official Draft Issued January 15, 2013

Response to the Official Draft Report

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OIG Recommendation Number 1: Establish regular formal meetings with BLM to discuss the status of the oil and gas program and elevate issues that are hindering FS' ability to effectively manage the program.

FS Response: The FS generally concurs with this audit recommendation. Beginning in early 2012, the FS Assistant Director for Leasable Minerals, Washington Office Minerals & Geology Centralized National Operations (CNO), commenced monthly conference calls with the BLM Fluid Minerals Division Chief. These calls, scheduled for the second Monday of each month, provide the opportunity for the FS to discuss the status of the oil and gas program and issues where better coordination and/or communication can improve management of the FS oil and gas program. Although participation in these calls is principally mid-level program management of both agencies, they have involved more senior management, such as the FS Associate Deputy Chief and the BLM Assistant Director, Minerals & Realty Management, signaling commitment by both agencies for these to be a productive forum for resolving issues. In addition, the FS Director of Minerals & Geology will conduct monthly meetings with the BLM Assistant Director, Minerals & Realty Management to further discuss issues relevant to management of the oil and gas program. The FS will provide documentation of the occurrence of these scheduled meetings to document completion of this recommendation.

Estimated Completion Date: April 1, 2013.

OIG Recommendation Number 2: Establish a process to assess how well FS is following the MOU.

FS Response: The FS generally concurs with this audit recommendation. The FS-BLM MOU anticipated such a process in Section VII where the agencies committed to the formation of a team to define measures of success for meeting the goals of the MOU. A variety of programmatic performance measure indicators exist within both FS and BLM, however there is no interagency effort to analyze these indicators to assess how well agency cooperative efforts are reducing leasing and permitting backlogs, improving processing timeframes, and ensuring surface compliance. The FS will formally request in writing to the BLM that an interagency team be created to address the commitment contained in Section VII of the MOU.

Estimated Completion Date: February 1, 2014

OIG Recommendation Number 3: Establish procedures to require managers to review the regions' mineral leasing file on a regular basis for pre-lease activities and take appropriate action, as needed, to assist their units in expediting the timely approval or denial of the nominated parcels.

FS Response: The FS generally concurs with this audit recommendation. The CNO Leasing Team will make it a priority to update the existing Regional mineral leasing file databases in order to generate a report that will: identify the number of requests (lease offers and expressions of interest) for leasing National Forest System (NFS) lands; the acreage associated with each request; and track critical dates associated with individual nominations. The CNO anticipates providing this initial report to Regional Foresters/Forest and Grassland Supervisors, requesting they coordinate with their respective BLM State Offices to prioritize and schedule analysis(es) of available lands in accordance with 36 CFR 102(b). Regions should use the report and the resultant prioritization/schedule development as the basis for requesting program funding to accomplish the highest priority analyses within a specified timeframe. Transmittal of the lease nomination report and request for the year's priority analyses would be timed to coincide with budget cycle. The FS will provide a copy of the transmittal letter and initial lease nomination status report to document compliance with this recommendation.

Estimated Completion Date: October 30, 2013.

OIG Recommendation Number 4: Coordinate with BLM and establish a plan to include pre-leasing activities in the proposed BLM system to track the status of the nominated parcels.

FS Response: The FS generally concurs with this audit recommendation. The agency will submit to BLM a written request for it to supplement its LR2000 database by developing a national automated tracking system of nominations for oil and gas leasing. Our request will ask that the proposed tracking system be developed with the capability to identify nominated lands on NFS lands by forest unit, as well as relevant process dates. Given the uncertain timeframe associated with the development of a national system, the FS is in the process of developing a transitional leasable minerals database which will replace the separate regional Mineral Lease File databases and will include the capability to track the status of lease nominations. The FS will provide a copy of the formal correspondence it sends to BLM requesting development of a lease nomination tracking system to document compliance with this recommendation.

Estimated Completion Date: December 31, 2013

OIG Recommendation Number 5: In the interim, modify and update the regions' current existing mineral leasing file system to track the number of days nominated parcels are awaiting approval in the system and the cause for delays.

FS Response: The FS generally concurs with this audit recommendation. On October 3, 2012, the Mineral Leasing File databases (MLF) for Regions 1 through 4 were modified to track the

number of days nominated parcels are pending approval. The cause for delays in processing parcels was already being tracked and is updated as new information becomes available. For other Regions, an Excel spreadsheet will be utilized to track the number of days nominated parcels are pending approval as well as the cause for delays. The FS will provide a copy of the MLF database report(s) on the status of lease nominations within each Region to document compliance with this recommendation.

Estimated Completion Date: April 1, 2013.

OIG Recommendation Number 6: Utilize the dispute resolution procedures, as written in the MOU, to gain access to BLM's AFMSS.

FS Response: The FS generally concurs with this audit recommendation. The agency views the problems in gaining access to the Automated Fluid Mineral Support System (AFMSS) to be more of a communication/technical issue than a dispute. FS and BLM staff have been informally troubleshooting means to resolve lack of access to the BLM database, but have not resulted in the desired outcome. Regardless, the FS acknowledges that the issue needs to be elevated to allow management to consider enlisting additional expertise and/or resources in hopes of resolving the problem. We will initiate the first step of the MOU's dispute resolution procedure, whereby the FS Director of Minerals & Geology will provide to the BLM Assistant Director of Minerals and Realty Management, a written request to: place a priority on providing FS personnel with immediate read-access to AFMSS; incorporate new data elements into the current and future AFMSS data structure to allow information to be queried by Forest and Ranger District; enter into discussions on how FS employees can obtain edit capabilities for AFMSS data entry to record information related to FS surface management responsibilities; and coordinate on developing an appropriate training program for FS personnel on the proper use and maintenance of the AFMSS database. FS will provide a copy of the official correspondence to BLM outlining the FS current and future needs relating to the AFMSS to document compliance with this recommendation.

Estimated Completion Date: July 1, 2013

OIG Recommendation Number 7: Enforce the use of AFMSS by FS staff to record results of well site inspections.

FS Response: The FS generally concurs with this audit recommendation. The agency will not be in a position to "enforce" the use of AFMSS to record FS inspection until BLM provides FS employees with write/edit-access. Per the response to OIG Recommendation 6, we will formally request in writing to the BLM Assistant Director of Minerals and Realty Management that the FS and BLM enter into discussion on the use and maintenance of AFMSS for recording FS surface inspections. BLM's response to the aforementioned request will dictate the FS ability to enforce AFMSS per the OIG recommendation. FS will provide a copy of the official correspondence to BLM outlining the FS current and future needs relating to the AFMSS to document compliance with this recommendation.

Estimated Completion Date: July 1, 2013

OIG Recommendation Number 8: Coordinate with BLM to provide FS staff with proper access (e.g., edit access) to AFMSS to allow staff to enter and maintain information, as well as create reports related to its oil and gas responsibilities.

FS Response: The FS generally concurs with this audit recommendation. See response to OIG Recommendation 7. FS will submit a formal request to BLM to receive AFMSS edit access to directly input oil and gas inspection information on NFS land. The FS will provide a copy of the official correspondence to BLM outlining the FS current and future needs relating to the AFMSS, including the desire for edit capability, to document compliance with this recommendation.

Estimated Completion Date: July 1, 2013

OIG Recommendation Number 9: Request that BLM modify AFMSS to incorporate fields, such as national forest, district sites, and others that would facilitate FS retrieval of information.

FS Response: The FS generally concurs with this audit recommendation. See response to OIG Recommendation 6. In its written request to BLM regarding the current and anticipated FS needs for the use of AFMSS, the FS will include its desire for the capability to retrieve information by FS unit. In addition to advocating BLM incorporate this information into the current AFMSS database, the CNO is also working with BLM to incorporate this capability into a revision of the AFMSS system software, which is currently under development by the BLM. The FS will provide a copy of the official correspondence to BLM outlining the FS current and future needs relating to the AFMSS to document compliance with this recommendation.

Estimated Completion Date: July 1, 2013

OIG Recommendation Number 10: Coordinate with BLM to implement a training plan for all FS officials that will have access to AFMSS.

FS Response: The FS generally concurs with this audit recommendation. See response to OIG Recommendation 6. In its written request to BLM regarding the current and anticipated FS needs for the use of AFMSS, the FS will include a request to develop an appropriate training program for involved FS personnel. We recognize that BLM's response to other aspects of the FS request will have a bearing on the extent of the training plan needed for FS employees. Depending upon the scheduled implementation of BLM's update to the AFMSS system, it may be prudent to delay training until the new system is implemented. The FS will provide a copy of the official correspondence to BLM outlining the FS current and future needs relating to the AFMSS to document compliance with this recommendation.

Estimated Completion Date: July 1, 2013

OIG Recommendation Number 11: Ensure program officials utilize the dispute resolution procedures, as written in the MOU, when BLM is not responsive to FS requests.

FS Response: The FS generally concurs with this audit recommendation. The agency agrees to implement the MOU's dispute resolution procedures as needed. Per the response to OIG Recommendation 2, we will work with BLM on establishing a team to define success measures for meeting the goals of the MOU. A component of this team's effort would be to emphasize and evaluate use of the dispute resolution procedures of the MOU. The FS will provide a copy of the written request to be sent to BLM requesting establishment of the aforementioned interagency team to document compliance with this recommendation.

Estimated Completion Date: August 15, 2013

OIG Recommendation Number 12: Coordinate with BLM to participate in the development and enhancement of any future national tracking system.

FS Response: The FS generally concurs with this audit recommendation. The agency commits to this coordination as future tracking systems are proposed. The FS is currently coordinating with BLM to incorporate FS informational needs into the proposed successor to the current AFMSS database. A member of the FS Minerals and Geology staff has been a regular participant in meetings held by BLM's database development group. Attached are copies of emails and associated attachments (TAB A and TAB B) between FS staff and the BLM WO contact for the AFMSS system revision as examples of the FS input to BLM on development of this national tracking system.

Estimated Completion Date: February 15, 2013

OIG Recommendation Number 13: Require field units to develop spill response plans for all national forest system lands that have oil and/or gas activities.

FS Response: The FS generally concurs with this audit recommendation. Forest Service Manual Section 2165 – Response to Hazardous Material Releases contains guidance for each Forest unit to develop a response plan for reporting and responding to releases of hazardous material, including discharges of oil. This manual section addresses the applicable emergency response planning requirements of the Occupational Safety and Health Administration, and the Environmental Protection Agency; coordination with local and State emergency response authorities; reporting/information sharing requirements of the Community Right-To-Know Act; and the role of the National Response Center (U.S. Coast Guard) in releases involving oil and/or hazardous substances into waters of the United States. The FS will issue a letter to Regional Foresters of Regions with oil and gas operations reiterating the guidance contained in the

reference Manual Section to demonstrate compliance with this recommendation. Attached is a copy of the Forest Service Manual Section 2165 (TAB C).

Estimated Completion Date: April 30, 2013

OIG Recommendation Number 14: Issue guidance to field units for developing spill response plans for all national forest system lands that have oil and/or gas activities.

FS Response: The FS generally concurs with this audit recommendation. Forest Service Manual Section 2165 – Response to Hazardous Material Releases (TAB B) contains guidance for each Forest unit to develop a response plan for reporting and responding to releases of hazardous material, including discharges of oil. This manual section addresses the applicable emergency response planning requirements of the Occupational Safety and Health Administration, and the Environmental Protection Agency; coordination with local and State emergency response authorities; reporting/information sharing requirements of the Community Right-To-Know Act; and the role of the National Response Center (U.S. Coast Guard) in releases involving oil and/or hazardous substances into waters of the United States. The FS will issue a letter to Regional Foresters of Regions with oil and gas operations reiterating the guidance contained in the reference Manual Section to demonstrate compliance with this recommendation. Attached is a copy of the Forest Service Manual Section 2165 (TAB C).

Estimated Completion Date: April 30, 2013

OIG Recommendation Number 14: Issue guidance to field units for developing spill response plans for all national forest system lands that have oil and/or gas activities.

FS Response: The FS generally concurs with this audit recommendation. Forest Service Manual Section 2165 – Response to Hazardous Material Releases (TAB B) contains guidance for each Forest unit to develop a response plan for reporting and responding to releases of hazardous material, including discharges of oil. This manual section addresses the applicable emergency response planning requirements of the Occupational Safety and Health Administration, and the Environmental Protection Agency; coordination with local and State emergency response authorities; reporting/information sharing requirements of the Community Right-To-Know Act; and the role of the National Response Center (U.S. Coast Guard) in releases involving oil and/or hazardous substances into waters of the United States. Attached is a copy of the Forest Service Manual Section 2165 to demonstrate compliance with this recommendation (TAB B).

Estimated Completion Date: March 29, 2013

OIG Recommendation Number 15: Revise all of the performance measures used to assess and measure oil and gas activities, as needed, to accurately depict work completed.

FS Response: The FS generally concurs with this audit recommendation. The agency is developing its Strategic Plan for 2013 - 2018. Performance measures will be formulated to demonstrate achievement of the Agency goals and objectives contained in the final Strategic Plan, while minimizing the number of measures the number of measures tracked. One method to accomplish this has been to group like accomplishments by area of emphasis. As an example from the 2007 – 2012 Strategic Plan, the Objective “To help meet the nation’s energy needs” generated a performance measure that grouped reporting of accomplishments within all energy commodities (i.e. oil and gas, geothermal, and coal). Although the FS is proposing to continue this grouping approach in its performance measures, the final agency program direction for Minerals & Geology requests that field units provide a separate report of the numbers of surface use plans of operation process for oil and gas.

While the actual number of leases and plans processed is indirectly indicative of processing efficiency (i.e. a higher number suggests increased efficiency), we acknowledge OIG’s concerns about processing timeframes. The FS is committed to strive for continual improvement in processing efficiency, but believes the current performance measure based upon arbitrary timeframes is not a proper indicator. Instead, we propose to track leasing and permit processing times in the various program databases and use average processing times as a managerial tool for monitoring processing efficiency from year to year. The FS will provide a copy of the FS energy-related workload measures for FY14 to document compliance with this recommendation.

Estimated Completion Date: October 30, 2013

Informational copies of this report have been distributed to:

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