



BOZEMAN, MONTANA DENVER, COLORADO HONOLULU, HAWAII
INTERNATIONAL JUNEAU, ALASKA OAKLAND, CALIFORNIA
SEATTLE, WASHINGTON TALLAHASSEE, FLORIDA WASHINGTON, D.C.
ENVIRONMENTAL LAW CLINIC AT STANFORD UNIVERSITY

June 9, 2004

VIA FACSIMILE AND OVERNIGHT U.S. MAIL

Linda Rundell
New Mexico State Director
Bureau of Land Management
1474 Rodeo Road
Santa Fe, New Mexico 87502

RE: Federal Register Notice of Change to the Proposed Resource Management Plan Amendment (RMPA) for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties, New Mexico, and opening of a 30-day public comment period (69 Federal Register 30718 (May 28, 2004))

Dear Ms. Rundell:

The purpose of this letter is to inform you that the decision by the Bureau of Land Management to limit the public's right to comment on the Supplement to Proposed Resource Management Plan Amendment (RMPA) for Federal Fluid Minerals Leasing and Development in Sierra and Otero Counties, New Mexico to the submission of written comments *that are delivered only by U.S. Mail* is inconsistent with the Federal Land Policy and Management Act (FLPMA), the National Environmental Policy Act (NEPA), the E-Government Act of 2002 (E-Gov Act), and BLM's past and current practices in preparing land use plans. Accordingly, the undersigned organizations request that BLM promptly issue a revised public notice in the Federal Register stating that public comments on the RMPA will be accepted either electronically (*i.e.*, via e-mail and facsimile) *or* by U.S. Mail. In addition, BLM must ensure that a full 30 days is provided for public comment after issuing the revised public notice.

Under FLPMA, BLM must establish procedures "to give Federal, State, and local governments and the public adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of public lands." 43 U.S.C. § 1712(f). BLM has interpreted FLPMA to require that the public be given "opportunity to meaningfully participate and comment on" the preparation of land use plans. 43 C.F.R. § 1610.2.

In this case, however, the decision by the New Mexico State BLM Office to prohibit electronic submission of comments on the RMPA is tantamount to denying tens of thousands of New Mexicans and other Americans the right to freely and easily express their opinions, views, and arguments about the decision to open up the Otero Mesa to oil and gas development. The submission of comments by electronic means simply provides a more efficient way to communicate with the government and promotes the widest possible public participation under FLPMA. Indeed, BLM has regularly allowed submission of comments on RMPs, RMPAs and/or related NEPA documentation electronically in recent years. See, e.g., Kobuk - Seward Peninsula RMP (<http://aurora.ak.blm.gov/Northwest/nwplanning/contact.html>); Ely District RMP

(http://webgis.ensr.com/comment_form2.asp); Draft RMP and Environmental Impact Statement for the Gunnison Gorge National Conservation Area (<http://www.ttsfo.com/Gunnison/GunnisonFederalRegister.html#NOA>); Draft RMP and Environmental Impact Statement for the Dillon Field Office, MT (<http://www.epa.gov/fedrgstr/EPA-IMPACT/2004/April/Day-09/i7460.htm>); and Draft EIS and Amendment of the Powder River and Billings RMP (<http://policy.fws.gov/library/02fr6943.pdf>). That BLM allowed electronic comments on these RMPs (and many others) demonstrates that it is clearly practicable to do so for the Otero/Sierra Counties RMP.

The curtailing of the public's rights to freely communicate with their government should not be tolerated in this day and age. For this reason, Congress recently declared in the E-Gov Act that BLM and other regulatory agencies must promote as widely as possible the public's right to access their government electronically. Public Law No. 107-347, 116 Stat. 2899 (2002). Congress adopted this mandate in clear recognition that "the use of computers and the Internet is rapidly transforming societal interactions and the relationships among citizens, private business and the Government." Public Law No. 107-347 § 2(a)(1), 116 Stat. 2899 (2002). Thus, Congress adopted the E-Gov Act to, among other things, "promote use of the Internet and other information technologies to provide increased opportunities for citizen participation in Government," "promote better informed decisionmaking by policy makers," and "to make the Federal Government more transparent and accountable." Public Law No. 107-347 § 2(b)(2), (7), and (9), 116 Stat. 2899 (2002).

In short, we request that BLM commit by this Friday, June 11, 2004, to republish the announcement for public comments on the RMPA. Such announcement should provide both an email address and facsimile number to which comments may be submitted (in addition to a mailing address) and should extend the time to comment for another 30 days. Only then will BLM ensure that the public can "meaningfully participate and comment" on the future of the Otero Mesa.

Sincerely,

Mike Harris
Earthjustice, on behalf of

New Mexico Wilderness Alliance
Southwest Environmental Center
The Wilderness Society
Natural Resources Defense Council