

Fee Lands in New Mexico: Confirming Inclusion in State or BLM Communitization Agreements

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1. Background & The Core Problem

When working fee mineral tracts in New Mexico, a standard county-record title search will not reveal whether the fee tract is included in a communization agreement (comm agreement) covering adjacent state or BLM lands. Operators and fee owners do not file state or BLM comm agreements at the county level. This creates a situation where a fee lease may be fully HBP by a producing well that does not physically sit on the fee tract, with zero county record to indicate it.

Key Concept: A fee tract may be HBP by production from a well not located on the tract itself, when the tract is committed to a communitization agreement covering a larger area. This relationship typically does not appear in county records. Confirmation requires cross-checking NMSLO, BLM, and OCD sources directly.

The practical example that prompted this guide: The E/2 NE/4, Section 10-22S-26E, Eddy County, New Mexico. No wells are drilled on this fee tract and no communization document appears in the county records. The broader E/2 of Section 10 is covered by a BLM comm agreement, with the Mesa Arriba #001 and #002 wells producing and holding the entire unit, including the fee quarter. The fee lease is HBP, but confirming it requires looking beyond the county record.

Terminology: "Comm agreement" and "communization agreement" are used interchangeably. In New Mexico, "communitization" is the standard term for pooling fee, state, and/or federal leases into a spacing or production unit (NMSA § 19-10-53). This is distinct from unitization, which combines an entire producing field or pool into a single operational entity, a different instrument, different approval process, different filings.

1b. Warning Signs to Investigate

A researcher should investigate possible communitization whenever these conditions appear on a fee tract. Any single condition warrants a check; multiple conditions together should be treated as a near-certainty that further investigation is required.

- No well is located on the tract itself.
- Nearby sections or the same section contains producing wells.
- No lease releases appear in the county records despite the lease age.
- State or federal acreage exists in the same or adjacent sections.
- Horizontal wells extend across multiple tracts or sections in the area.
- The lease appears to remain active despite no visible development on the tract.
- The operator is listed on surrounding tracts but not in county records for your tract.

2. Why Fee Tracts End Up in Comm Agreements, Legal Framework

New Mexico law (NMSA § 19-10-53) authorizes the Commissioner of Public Lands to approve comm agreements pooling state leases with federal, fee, or tribal lands when separate tracts cannot be independently developed in conformity with OCD well-spacing rules. The federal Mineral Leasing Act (43 CFR § 3105.2-2) similarly authorizes BLM to approve communitization agreements when federal tracts cannot be independently developed within an established spacing program. Both mechanisms can pull the same fee tract into a unit simultaneously via parallel but separate agreements.

- **Filing location:** State and BLM comm agreements are filed with the NMSLO and BLM respectively, and agency records are the primary, and often the only, place to find them. County recording of these instruments is inconsistent: it may occur in some cases for notice purposes, but it cannot be relied upon. Do not treat a county records search as sufficient to confirm whether a comm agreement exists. Purely fee-to-fee pooling agreements should be county-recorded under NM law (NMSA § 70-2-17), but once a state or BLM lease is part of the unit, agency filing governs and county recording is secondary at best. This is the root cause of the visibility gap.
- **Forced pooling of unleased owners:** Under NMSA § 70-2-17 and implemented through NMAC 19.15.13, New Mexico allows compulsory inclusion of unleased mineral owners. Where unleased private or federal owners are included in a comm agreement, the NMSLO application process requires documentation of the OCD force-pooling order and an exhibit identifying non-committed leases and their owners. Per NMSA § 70-2-17, a force-pooled owner receives 1/8 royalty + 7/8 working interest, with costs and production allocated on a surface acreage basis. Critically, forced pooling does not create a lease, it creates a statutory participation right. Force-pooled owners will appear in the exhibit alongside leased owners with no visible distinction.
- **BLM approval without royalty/ORRI joinder:** BLM approves comm agreements without requiring joinder by royalty interest owners or ORRI owners. Per NMAC 19.15.4.12A(1)(a), these owners are also excluded from mandatory notice requirements. Their interests pass through the unit automatically via the pooling clause in the underlying lease.
- **Production holds all tracts:** Once a comm agreement is in place and a well is producing anywhere within the unit, all tracts, including fee tracts with no wells on them, are HBP for the duration of production, provided the lease contains a pooling or unitization clause supporting off-tract production. Always check the lease language independently.
- **The OCD map gap:** The NMOCD GIS map displays only BLM communization agreements. State comm agreements do not appear on the OCD map at all. Running the NMSLO Connect check is mandatory, the OCD map is not sufficient standing alone.
- **Royalty Resiliency Act (2024):** Enacted September 2024, this law requires BLM to issue production allocation determinations for comm agreements within 120 days of request. Until BLM issues its determination, lessees pay royalties on the proposed allocation in the pending application, then correct afterward. This reduces approval-delay royalty uncertainty but does not change how fee tracts are identified or included.

3. Step-by-Step Verification Process

Follow these steps for any fee tract in New Mexico where: (1) no wells appear on the tract, (2) no comm agreement is visible at the county, or (3) a lease shows no clear expiration basis.

Step 1, NMOCD GIS Map: Check for BLM Comm Agreements

1. Go to the NMOCD Oil & Gas GIS Map (direct URL in Sources section).

2. Open the Layers panel. Enable the layer labeled exactly: 'Bureau of Land Management communitization agreements.' Also enable 'BLM fluid mineral leases' and 'NM State Land Office oil and gas leases' to understand surrounding land ownership, this immediately shows whether federal or state lands are adjacent and whether a comm agreement is likely.
3. Navigate to your section using the PLSS layers.
4. Click on your tract. If a BLM comm agreement polygon overlaps it, a popup shows the SRP/case number (e.g., 105685685).
5. Click 'More Info' to go directly to the OCD SRP for that agreement.
6. If nothing appears: do NOT stop here. State comm agreements are invisible on this map. BLM rendering can also have gaps. Proceed to Step 2 regardless.

Step 2, NMSLO Connect: Check for State Comm Agreements

1. Go to NMSLO Connect: secure.slo.state.nm.us/Applications/SLOConnect/
2. Click the 'Communization Info' tab.
3. Enter Township (e.g., 22S), Range (e.g., 26E), Section. All fields required.
4. Returns state comm agreements covering that section: state lease(s) included, approved acreage, agreement status.
5. Note any agreement number. Run this step even if Step 1 found a BLM agreement, both a BLM and state comm agreement can cover the same section simultaneously.
6. If both steps come back empty: check the NMSLO lease search by section for any active state lease, which might signal a unit you have not yet found. If still nothing and surrounding activity is present, the tract may genuinely be open, but document your negative search.

Step 3, OCD SRP: Pull Case Details and Verify Tract Inclusion

1. Using the case number from Step 1 or 2, go to the NMOCD SRP lookup (see Sources).
2. Enter the case number without spaces.
3. Scroll to the bottom of the case details. The tract exhibit lists every included tract: federal, state, and fee acres as distinct line items.
4. Confirm your specific legal description (section, township, range, subdivision) appears in the fee acres.
5. Check the 'Production Determination' field. This is the authoritative production status. The GIS map and SRP frequently conflict, a tract can show 'non-producing' on the map while the SRP shows 'producing.' SRP wins.
6. Note all well API numbers tied to the comm agreement.
7. Also run an OCD Imaging search (ocdimage.emnrd.nm.gov/imaging/) by section/twp/rng for any spacing orders, force pooling orders, or hearing records affecting your tract.

Step 4, Order the Full Comm Agreement Document

The SRP confirms the agreement exists and your acreage is listed, but does not show owner identity or lease validity. The full document is required.

- **State comm agreements (from NMSLO):** Order from NMSLO directly. Same-day or next business day. Contains tract plat with numbered tracts, full exhibit with mineral owner names and WI percentages for leased interests, and forced pooling documentation if applicable. Use the current NMSLO form version only.

- **BLM comm agreements (now via MLRS):** BLM replaced LR2000 with MLRS (Mineral & Land Records System), mlrs.blm.gov. Create a free account to search cases and order documents. Turnaround: one day to two-plus weeks. BLM approves comm agreements without royalty or ORRI owner joinder; those owners are excluded from notice. The BLM document contains a similar tract exhibit and plat. BLM national GIS comm agreement polygons are also available at the BLM GBP Hub.

What the fee tract exhibit will contain:

- A numbered tract plat showing each tract in the comm agreement boundary.
- For each fee tract: mineral owner names as of the agreement date and WI percentages. No book/page or county recording number for any fee lease, names only.
- Forced pooling order documentation if any unleased owners were compulsorily included.
- WI percentages reflect voluntarily leased working interests only as a fraction of leased acreage. An operator listed at 100% WI holds 100% of leased WI, force-pooled and additional unleased owners hold their statutory interests separately and are not reflected in that 100%.

Step 5, Reconcile the Owner Exhibit Against Your Title Chain

The exhibit lists owners but does not identify which are leased and which are force-pooled. You must make that determination.

- **Owner matches lease-era grantor:** If the name in the exhibit matches the owner of record at the time of the comm agreement, even if the interest has since been conveyed, this strongly suggests the interest was leased and is included in the unit.
- **Current owner listed, no executed lease in county:** If the name in the exhibit is the current mineral owner but you cannot locate their executed lease in county records, they were likely force-pooled. Forced pooling is not a lease. It does not HBP in the same manner, and it cannot be assigned as leasehold.
- **Neither current owner nor predecessor listed:** Escalate immediately to project management and the supervising attorney. Do not assume inclusion. There may be a documentation gap, a survey discrepancy, or the tract may not be in the unit.
- **WI percentage interpretation:** WI percentages are computed as each party's share of leased working interest only. When force-pooled owners are present, the exhibit WI percentages will not sum to 100% of all mineral ownership, only 100% of the leased fraction. This matters for any acquisition, title opinion, or division order analysis.
- **High owner count tracts:** Fee tracts in Eddy County can have 50 or more fractional mineral interest owners. Work through the exhibit systematically. Build a tracking worksheet noting each name, whether they are confirmed leased, and whether the lease instrument is located in county records. Do not try to hold this analysis informally.
- **Note on exhibit ownership listings:** Comm agreement exhibits often list current owners, prior owners, unleased mineral owners, and force-pooled owners without distinguishing between categories. Do not assume every name in the exhibit corresponds to a leased working interest. Cross-reference against your title chain to determine which type applies to your tract, and flag any name that does not appear in your county title history for follow-up.

Step 6, Verify Production and Confirm HBP Status

1. Download production records for all wells in the comm agreement from NMOCD well search (wwwapps.emnrd.nm.gov/ocd/ocdpermitting/) using the API numbers from Step 3. For older wells, also check

GO-TECH (octane.nmt.edu/gotech/) for pre-ONGARD historical production data.

2. Confirm the well(s) are currently producing. A producing well anywhere in the comm agreement holds all tracts in the unit, including fee tracts with no wells, as HBP for the duration of production.
3. Cross-reference production status across: (a) OCD well detail page, (b) SRP production determination, and (c) OCD GIS map layer. When sources conflict, document all three and flag the discrepancy. Significant conflicts warrant direct inquiry to the OCD or the operator.
4. Check the underlying fee lease pooling clause. HBP by comm agreement production requires the lease to contain a pooling or unitization clause allowing the lease to be held by production from a well not on the leased premises. Some older New Mexico fee leases have narrow or absent pooling clauses. If the clause is ambiguous or restrictive, flag for attorney review before marking HBP.
5. If all wells in the unit are plugged or non-producing: do not mark HBP without attorney review. A cessation-of-production or period-of-production dispute may be relevant.
6. Document everything: comm agreement number(s), SRP case number(s), API number(s), production status by source, and the lease pooling clause language reviewed.

4. AAPL Resources

AAPL (American Association of Professional Landmen) does not publish a specific article on fee tract inclusion in New Mexico state or BLM comm agreements. The following AAPL resources are, however, directly applicable:

- **HBP & Royalty Issues Course (AAPL Learning):** Covers HBP status from both regulatory statute and lease language perspectives, the two dimensions that matter here. Available at learning.landman.org.
- **Landman Magazine, New Mexico Licensing (2024 issue):** "Landmen and Licensing, New Mexico" addresses NM-specific land practice. Available in the AAPL member article archive.
- **NM Oil & Gas Law Primer (AAPL-affiliated authorship):** "A Primer on New Mexico Oil and Gas Law: State, Federal and Fee Lands", published in the LSU Law Review by AAPL members, is the single most useful external reference for this workflow. It covers communitization, forced pooling, and HBP in depth and is freely available online (see Sources).
- **AAPL Model Form 610 JOA:** Governs operational rights within comm agreement units in the Permian Basin. Pooling and non-consent provisions in the JOA are directly relevant to understanding WI rights within a unit. Available through AAPL at landman.org/resources/forms.

5. Quick Reference: Resources, Usage, and Limitations

Resource / Tool	What It Shows & How to Use	Key Limitations
NMOCD Oil & Gas GIS Map	Turn on 'Bureau of Land Management communitization agreements' layer. Click your tract, popup shows BLM comm agreement case number. Click 'More Info' to go directly to the OCD SRP.	BLM comm agreements ONLY. State comm agreements are invisible here. A blank result does not mean no comm agreement exists.
NMSLO Connect – Communization	Go to secure.slo.state.nm.us/Applications/SLOConnect/ . Click Communization Info tab. Enter Township (e.g. 22S), Range (e.g. 26E),	State comm agreements only. No fee lease

Resource / Tool	What It Shows & How to Use	Key Limitations
Info Tab	Section. Returns state comm agreements for that section with state lease(s) and acreage.	book/page listed. Must order full document separately from NMSLO.
OCD SRP / Case Details Page	Using the comm agreement case number, go to NMOCD SRP lookup. Scroll to bottom, lists all tracts: federal, state, and fee acres separately. Verify your section/quarter in fee acres. Check Production Determination field.	Map display and SRP production status often conflict. SRP is always authoritative. Check here regardless of what the map shows.
OCD Imaging Document Search	Search at ocdimage.emnrd.nm.gov/imaging/ . Over 4 million docs: well files, case files, admin orders, hearing records, spacing orders. Search by section, township, and range for tract-specific orders.	Not all orders have spatial attributes. Cross-reference with SRP for comm agreement documents.
State Comm Agreement Doc (Order from NMSLO)	Order from NMSLO directly. Same-day or next business day. Full tract exhibit with numbered plat, mineral owner names, WI percentages for leased interests, and forced pooling documentation if applicable.	No county book/page for fee leases, names only. WI reflects leased interests only, not total mineral ownership in the tract.
BLM Comm Agreement Doc (Order via MLRS)	BLM replaced LR2000 with MLRS. Create free account at mlrs.blm.gov to search and order BLM comm agreement documents. Similar tract exhibit and plat. BLM GIS polygon data at BLM GBP Hub (gbp-blm-egis.hub.arcgis.com).	Turnaround 1 day to 2+ weeks; BLM server issues common. ORRI owners excluded from notice per NMAC 19.15.4.12A.
NMOCD Well Search & Production Records	Search wells at wwwapps.emnrd.nm.gov/ocd/ocdpermitting/ by API, legal description, or operator. Download production history. GO-TECH (octane.nmt.edu/gotech/) for historical/pre-ONGARD data on older wells.	Cross-source verification required. OCD well page and SRP often conflict. Reconcile before marking status.
Eddy County Records / Title Plant	Eddy County online recordings: eddy.nm.publicsearch.us/ . CourthouseDirect.com provides geographically indexed title plant search for Eddy County: deeds, leases, mineral instruments.	State and BLM comm agreements NOT filed at county. Fee-to-fee pooling agreements should appear here; mixed comm agreements will not.

Resource / Tool	What It Shows & How to Use	Key Limitations
BLM MLRS Public Reports & GIS	Public BLM reports at reports.blm.gov/reports/MLRS . National active comm agreement GIS polygons at BLM GBP Hub. Useful for visual confirmation of BLM agreement boundaries.	GIS data may lag behind case recordation. Always confirm active status on OCD SRP, not just the GIS layer.

6. Common Mistakes and How to Avoid Them

- **Stopping at county records and calling the tract open.** State and BLM comm agreements are not at the county. County records are necessary but not sufficient.
- **Checking only the OCD map and missing state comm agreements.** The OCD map shows BLM only. Run the NMSLO Communization Info check on every fee tract, every time.
- **Relying on OCD map status for production.** GIS map and SRP production status frequently conflict. SRP case details are authoritative.
- **Using LR2000 to search for BLM comm agreements.** LR2000 is obsolete. BLM replaced it with MLRS (mlrs.blm.gov). Update any internal references or workflows accordingly.
- **Accepting exhibit WI percentages at face value.** WI in the exhibit reflects leased interests only. Force-pooled owners hold separate statutory interests not shown in that percentage.
- **Not distinguishing leased from force-pooled owners.** Force-pooled status (1/8 royalty, 7/8 WI per NMSA § 70-2-17) is not a lease. It cannot be assigned as leasehold or used to satisfy a lease requirement in a title opinion.
- **Assuming HBP without checking the lease pooling clause.** Comm agreement production holds a fee lease HBP only if the lease contains a pooling clause supporting off-tract production. Verify the lease language on every tract.
- **Confusing communitization with unitization.** Communitization = spacing/production unit (section-scale, common). Unitization = entire field entity (less common, different approval). Different instruments, different processes.
- **Not ordering the full document.** SRP and portal entries confirm existence but not owner details. The full document is required to reconcile the exhibit against your title chain.

7. Summary Checklist, Fee Tracts, No On-Tract Wells, NM

Run this checklist for any New Mexico fee tract with no well on it and no comm agreement visible at the county.

1. County title search: Confirm lease execution, ownership chain, assignments. Note lease pooling/unitization clause language.
2. NMOCD GIS Map: Enable 'Bureau of Land Management communitization agreements' layer. Click tract. Record BLM comm agreement case number if found.
3. NMSLO Connect: Communization Info tab. Enter Twp/Rng/Sec. Record state comm agreement and case number. Run even if Step 2 found a BLM agreement.
4. OCD SRP: Pull case details for each comm agreement. Verify fee acreage listed. Check Production Determination (SRP, not map layer).

5. OCD Imaging: Search by section/twp/rng for spacing orders, force pooling orders, hearing records.
6. Order full documents from NMSLO (state) and/or MLRS/BLM. Allow for BLM delays.
7. Review tract exhibit. Identify all listed owners for fee tract. Cross-reference each against title chain.
8. Categorize each owner: (a) leased, instrument confirmed in county records; (b) force-pooled, current owner, no lease found; (c) indeterminate, flag for attorney.
9. Download NMOCD production records for all unit wells by API. Cross-reference with SRP. Reconcile conflicts.
10. Verify fee lease pooling clause supports HBP by off-tract production.
11. Mark status: HBP (note comm agreement number + production source), Open, or Flag for Attorney Review.
12. Document all sources: comm agreement numbers, SRP case numbers, API numbers, production sources, lease pooling clause language.

7b. Suggested Title Note Language

Use language similar to the following when noting a potentially HBP fee tract in a title runsheet or ownership report where communitization is identified but the full agreement has not yet been reviewed:

The subject tract does not appear to contain a wellbore location. However, based on review of New Mexico State Land Office communitization records, BLM federal land records where applicable, and related OCD well and spacing information, the tract appears to be included within a larger communitized area associated with nearby production. Subject to confirmation from the communitization agreement and its exhibits, the lease covering this tract may be held by production through that communitized area. This determination should be confirmed by review of the full agreement and its tract exhibit before final status is marked.

Do not mark a tract as definitively HBP in a title opinion based on portal results alone. The note language above is appropriate for a runsheet or preliminary report pending full document review.

8. Sources & Resource Links

All links verified as of March 2026. Bookmark these for routine New Mexico field use.

Primary Research & Verification Tools

NMOCD Oil & Gas GIS Map: <https://nm-emnrd.maps.arcgis.com/apps/webappviewer/index.html?id=4d017f2306164de29fd2fb9f8f35ca75>

NMOCD OCD Imaging, Well Files, Case Files, Admin Orders (4M+ docs):
<https://ocdimage.emnrd.nm.gov/imaging/>

NMSLO Connect, State Lease Portal & Communization Info:
<https://secure.slo.state.nm.us/Applications/SLOConnect/>

BLM MLRS, Mineral & Land Records System (Replaced LR2000): <https://mlrs.blm.gov/s/>

BLM MLRS Public Reports: <https://reports.blm.gov/reports/MLRS>

GO-TECH ONGARD Well & Production Data, NM Tech / PRRC:
https://octane.nmt.edu/gotech/Petroleum_Data/general.aspx

County Records (Eddy County)

Eddy County Clerk, Online Recordings Index: <https://eddy.nm.publicsearch.us/>

CourthouseDirect.com, Eddy County Title Plant Search:
<https://www.courthousedirect.com/PropertySearch/NewMexico/Eddy>

BLM GIS & National Data

BLM GBP Hub, NM Geospatial Data (Comm Agreements, Leases, PLSS): <https://gbp-blm-egis.hub.arcgis.com/pages/newmexico>

BLM Oil & Gas Unitization & Communitization, Operations & Production:
<https://www.blm.gov/programs/energy-and-minerals/oil-and-gas/operations-and-production/unitization-communitization>

Statutes, Rules & Legal References

NMSA § 19-10-53, State Participation in Pooling & Communitization: <https://law.justia.com/codes/new-mexico/2013/chapter-19/article-10/section-19-10-53/>

NMSA § 19-10-54, Existing Comm Agreements Confirmed & Validated: <https://law.justia.com/codes/new-mexico/chapter-19/article-10/section-19-10-54/>

NMAC 19.15.13, Compulsory Pooling (NM Admin Code): <https://www.srca.nm.gov/parts/title19/19.015.0013.html>

NMSLO Comm Agreement Checklist & Application Instructions: https://www.nmstatelands.org/wp-content/uploads/2023/04/4.3.23_Checklist_and_Instructions_for_Comm_Agreements.pdf

NMSLO State/Federal Comm Agreement Form (Blank): https://www.nmstatelands.org/wp-content/uploads/2019/06/Communitization_State_Fed_form_4.pdf

NMSLO Oil, Gas & Minerals Division, Lease Information: <https://www.nmstatelands.org/divisions/oil-gas-and-minerals/lease-information/>

BLM Royalty Resiliency Act Implementation, IM 2025-012: <https://www.blm.gov/policy/im-2025-012>

AAPL Reference

A Primer on NM Oil & Gas Law: State, Federal and Fee Lands (LSU Law Review):
<https://digitalcommons.law.lsu.edu/cgi/viewcontent.cgi?article=1137&context=jelr>

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