



File 1570 (215) Date: March 10, 1999  
Code:  
Route  
To:  
Subject: Bruce Anderson Trailside Unit #1 DN, Appeal #99-01-00-0086  
Custer National Forest  
To: Appeal Deciding Officer

This is my recommendation on disposition of the appeal filed by Lillian Sorenson and Rebecca Walby protesting the Bruce Anderson Trailside Unit #1 Decision Notice signed by the McKenzie District Ranger (Dakota Prairie Grasslands).

The District Ranger's decision adopts Alternative 1 (modified) which authorizes Bruce Anderson's Surface Use Plan (SUP) portion of the Application for Permit to Drill (APD) to drill the Bruce Anderson Trailside Unit #1 oil and gas well. The decision includes modifications to the original SUP submitted by Anderson.

My review was conducted pursuant to, and in accordance with, 36 CFR 215.19 to ensure the analysis and decision are in compliance with applicable laws, regulations, policy, and orders. The appeal record, including the Appellants' objections and recommended changes, has been thoroughly reviewed.

## FINDINGS

### Appeal Review Findings

The Appellants allege violations of NFMA and NEPA). The Appellants request the decision be withdrawn and that an Environmental Impact Statement (EIS) be prepared. An informal meeting was held but no resolution was reached.

### **Objection 1: The DN inadequately protects the wilderness in the North Unit of Theodore Roosevelt National Park (TRNP).**

Contention A - The mitigation measure to defer drilling until after July 4 will not be effective because the highest use of TRNP wilderness is the 4 to 6 weeks after July 4.

Response: The District Ranger specifically included the modification to the SUP to delay drilling until after the July 4th holiday to minimize noise and visual effects to TRNP visitors. He provides rationale for this modification (DN, p.3) which I find to be reasonable and within his discretion.

Contention B - The Appellant contends that TRNP and the North Unit wilderness have "unique characteristics" that will be significantly affected by the proposed well.

Response: The EA discloses the auditory and visual effects of the well on TRNP visitors, particularly users of the Ackenbeck Trail (EA, Ch. III, pp. 2-3). Design criteria were developed to mitigate and minimize any visual or auditory effects of the well should it go into the production phase. I concur with the District Ranger's determination that the effects are not significant and that his decision is consistent with Forest Plan direction for Visual/Auditory and Recreation resources.



**Objection 2: The project will adversely effect users of the Maah-Daah-Hey Trail.**

The Appellants disagree with the EA's conclusion that the well would have minimal effects to the trail users because the visual exposure would be short term.

Response: The EA and DN acknowledge that the well would be visible to trail users as they crossed the ridge where the well would be located and that trail users may smell hydrogen sulfide gas in the immediate area of the well. I concur with the determination that these effects are not significant and that the decision is consistent with Forest Plan direction for minerals and recreation resources.

RECOMMENDATION

I recommend the District Ranger's decision be affirmed and the Appellants' requested relief be denied.

/s/ Katherine Q. Solberg

KATHERINE Q. SOLBERG  
Reviewing Officer  
Director, Human Resources



File Code: 1570

Date: February 18, 1998

Route To: \*

Subject: Appeal #99-01-00-0086 - Appeal of Bruce Anderson Trailside Unit #1 Decision Notice  
Bruce Anderson Trailside Unit #1 Decision Documentation Transmittal Letter  
Appellants: Lillian Sorenson and Rebecca Walby  
Document Type: Environmental Assessment/Decision Notice

To: Appeal Reviewing Officer

Enclosed is the documentation supporting my Bruce Anderson Trailside Unit #1 Decision Notice in response to the appeal from Lillian Sorenson and Rebecca Walby. This transmittal letter submission is required by 36 CFR 215.12(f)(1).

### **Background for Decision Under Appeal**

The Environmental Assessment (EA) for this project commenced in August, 1997. An initial field review of Bruce Anderson Oil's well pad location occurred in September, 1997. In October, 1997, another field meeting took place to adjust the original well pad location. This adjustment avoided impacting a livestock water pipeline, an overhead power line, and adjacent steep slopes. This new location also minimized the amount of soil disturbance necessary to construct the well pad.

The Purpose and Need for this project is described in Chapter I of the EA (p. I-1). The need for this project can be summarized by the following:

? *Responding to the Surface Use and Operations Plan for authorization as submitted by Bruce Anderson to drill the Bruce Anderson Trailside Unit #1 oil well as the legal lease holder.*

Based on public input to the environmental assessment (see Appendix A of the Decision Notice), I discussed with Scott Anderson (Bruce Anderson Oil representative) the possibility of exchanging their oil and gas lease for other leases available on the Little Missouri National Grasslands. After exploring the exchange possibilities, which involved considerable efforts by Bruce Anderson Oil, we mutually concluded an agreement could not be reached on the equitable values to be exchanged. Our only viable option at that point was to continue considering for approval Anderson's original proposal.

The Custer National Forest Land and Resource Management Plan (Forest Plan) guides the achievement of **Forest Plan Consistency** for site-specific projects such as this. The Bruce Anderson Trailside Unit #1 EA tiers to the Forest Plan as discussed in the EA's Chapter 1 (pages 2-3). This EA also tiers to the Oil and Gas Leasing Final Environmental Impact Statement for the Northern Little Missouri National Grasslands (Northern FEIS) and its accompanying Record of Decision (ROD). This FEIS/ROD considered the impacts associated with leasing public lands for oil and gas development within the McKenzie Ranger District.

I signed the Decision Notice on December 17, 1998. I used the public comments we received during the scoping and 30 day Notice and Comment periods to make a decision in compliance with the Forest Plan goal "to be responsive to the National demand for energy and strategic minerals consistent with other resource objectives" (Forest Plan, p. 3). The legal notice announcing the decision was published in *The Bismarck Tribune* newspaper of Bismarck, North Dakota on December 21, 1998.

### **Appellants' Participation in the NEPA Process**

Lillian Sorenson responded to the Scoping Notice on August 15, 1997. Rebecca Walby did not comment on the Scoping Notice. The appellants separately commented during the EA's 30-day Notice and Comment period. Issues raised in these comment periods were:

*?Impacts to the unique and protected area would not be in the best interests of the citizens of the U.S.*

*?Project would not be conducive to the ongoing protection of native species*

*?Impacts on the undisturbed grasslands, both inside the Theodore Roosevelt National Park (TRNP) and on the surrounding National Grasslands, by this well proposal and future well developments*

*?Disturbance on plant species that are not yet listed as threatened and endangered*

*?Concern that more well developments are imminent if this proposed well produces oil*

The appellants' request for relief is to:

*? Withdraw the Decision Notice and prepare an Environmental Impact Statement.*

### **Public and Agency Comment Opportunities**

To inform the public about the Bruce Anderson Trailside Unit #1 Oil Well project, a scoping letter was mailed on August 1, 1997 to 72 groups, organizations, and/or individuals known to have an interest in the project area (see Project File). Other Federal, State, and local governmental agencies were also notified in this process. Seven responses to the scoping document were received.

The EA was mailed for review on May 1, 1998 to all individuals, organizations, and agencies that provided comments or requested to be involved for this project (See project file). The nine comments we received during the 30-day Notice and Comment period can be found in Appendix A of the Decision Notice. On February 2, 1999, Ms. Sorenson and Ms. Walby appealed my decision.

The identified appeal issues are listed in the attached Transmittal Letter. Along with each issue is my documentation within the environmental documents and the Project File pertinent to the appeal issues. If you have any questions, please call Cheryl Enderud, the Project Team Leader, or myself  
Sincerely,

/s/ Leslie W. Thompson

LESLEY W. THOMPSON  
McKenzie District Ranger  
Dakota Prairie Grasslands

Attachments: Bruce Anderson Trailside Unit #1 Decision Documentation Transmittal Letter

Enclosure: Bruce Anderson Trailside Unit #1 EA Project File

**ISSUE 1. The Decision Notice inadequately protects the wilderness area in the North Unit of Theodore Roosevelt National Park. (NOA, p. 1)**

***Contention 1.** We particularly object to the provision that the well proceed with the concession of the drilling dates to occur after July 4th. It is our opinion that this is no concession at all; indeed, we strongly suspect that the highest visitation in these areas occurs after this date. Indeed, it causes us to doubt that the backcountry use statistics for these areas were consulted in making this decision. (NOA, p. 1)*

**RESPONSE**

SOURCE	LOCATION	WHAT YOU WILL FIND...
Decision Notice	Page 2	The district ranger's decision modification to delay the drilling phase after July 4th to minimize the visual and noise impacts for the Theodore Roosevelt National Park visitors.
Decision Notice	Page 3, 2nd paragraph	The rationale for the decision criteria that was used in making the decision, specifically proposing design criteria to the extent possible within the district ranger's authority.
Decision Notice	Page 3	An acknowledgment that views of the drilling rig and production facilities from within the TRNP and from the Maah-Daah-Hey Trail, exposure to noises associated with the well's activities, and exposure to H <sub>2</sub> S odors are several ways people could be affected. These impacts are weighed against Bruce Anderson Oil's legal right to develop their lease.

***Contention 2.** Also, Item 3, under INTENSITY, which says, in part: "unique characteristics of the geographic area, such as proximity to ... park lands ...; the geographic area does not contain any unique characteristics that will be significantly affected by the project" strikes us as particularly ludicrous given that most everyone would agree that a National Park is a unique characteristic. Granted, the proposed well site is not within the Park boundaries; however, it would be visible from a significant portion of the Park. (NOA, p. 1)*

**RESPONSE**

SOURCE	LOCATION	WHAT YOU WILL FIND...
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SOURCE	LOCATION	WHAT YOU WILL FIND...
Decision Notice	Page 5, Item 3	A conclusion that the geographic area does not contain any unique characteristics that will be significantly impacted by the project.
Environmental Assessment	Chapter III, pages 2-3 and 5	An evaluation of the impacts to the Visual Quality/Auditory and Recreation resources - the impacts would be temporary or minimal.
Environmental Assessment	Chapter III, pages 2-3 and 5	An assessment that the project is consistent with Forest Plan direction for the Visual/Auditory and Recreation resources.
Forest Plan	Forest Plan Amendment #10	An adjustment that certain seen areas from TRNP are assigned the VQO of retention, and the remainder of the seen area are assigned the VQO of partial retention. The project area lies within the partial retention VQO.
Forest Service Manual	2320.3 (Policy), Item 5	Forest Service policy direction that states because wilderness does not exist in a vacuum, consider activities on both sides of wilderness boundaries during planning and articulate management goals and the blending of diverse resources in forest plans. <b><i>Do not maintain buffer strips of undeveloped wildland to provide an informal extension of wilderness.</i></b> Do not maintain internal buffer zones that degrade wilderness values. Use the Recreation Opportunity Spectrum (FSM 2310) as a tool to plan adjacent land management. (emphasis added)

## **ISSUE 2. Impacts to the Maah-Daah-Hey trail (NOA, p. 1)**

***Contention 1. [W]e strongly object to the statement that "because of the short-term visual exposure to the well site, this project would have minimal effects on trail users." This statement assumes that trail users would always proceed along as quickly as possible, ostensibly to put such an offensive structure behind them, and that trail users would not feel that even short-term exposure to a well site to be highly disturbing. Significant resources have been devoted to the development of the Maah-Daah-Hey trail and it stands to reason that decisions about any development from here on should be made with the preservation of this unique area in mind. (NOA, p. 1)***

## **RESPONSE**

SOURCE	LOCATION	WHAT YOU WILL FIND...
Decision Notice	Page 3, 2nd paragraph	The rationale for the decision criteria that was used in making the decision, specifically proposing design criteria to the extent possible within the district ranger's authority.
Decision Notice	Page 3	An acknowledgment that views of the drilling rig and production facilities from within the TRNP and from the Maah-Daah-Hey Trail, exposure to noises associated with the well's activities, and exposure to H <sub>2</sub> S odors are several ways people could be affected. These impacts are weighed against Bruce Anderson Oil's legal right to develop their lease.

SOURCE	LOCATION	WHAT YOU WILL FIND...
Decision Notice	Page 4, Issue 4	A summary of the effects analysis for the Recreation resource - trail users would only be able to see the well once they reached the ridgetop where the well would be located.
Decision Notice	Appendix A, Response to Steve Robbins letter (May 28, 1998), Response C	An explanation of the effects analysis determinations on the Maah-Daah-Hey trail.
Environmental Assessment	Chapter I, page 2	The Forest-wide goal for minerals management - it is recognized that there are other areas where recreation are important values in the same area as mineral development and measures will be taken to minimize adverse impacts to these values.
Environmental Assessment	Chapter I, page 2	Management Area B's goal, which is to facilitate minerals and energy development with consideration for other resource needs.
Environmental Assessment	Chapter II, page 2	Identification of recreation as an "Other Issue", which is analyzed in Chapter III.
Environmental Assessment	Chapter III, pages 4-5	Disclosure of the environmental effects on the Recreation resource - the well would be visible to trail users once they reached the ridgetop where the well would be located, and trail users may encounter foul-smelling odors (H <sub>2</sub> S gas) in the immediate area of the well site.
Environmental Assessment	Chapter III, page 5	A finding that the project is consistent with Forest Plan direction for the Recreation resource.