

Record of Decision Oil and Gas Leasing

USDA Forest Service Little Missouri National Grassland, Dakota Prairie Grasslands Billings, Golden Valley, McKenzie, and Slope Counties, North Dakota

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Decision and Reason for the Decision

Introduction

The Dakota Prairie Grasslands prepared a Final Supplemental Environmental Impact Statement for Oil and Gas Leasing (FSEIS) that discloses the potential effects of authorizing the Bureau of Land Management (BLM) to lease federal minerals on National Forest System lands (NFS lands) for oil and gas development. This Record of Decision (ROD) documents decisions and rationale regarding which NFS lands on the Little Missouri National Grassland the Forest Service authorizes the BLM to lease and identifies stipulations determined necessary to protect the surface resources, based on disclosure of environmental effects in the supplement. The Forest Service is acting under authority established in the Mineral Leasing Act of 1920, the Mineral Leasing Act for Acquired Lands of 1947 and the Federal Onshore Oil and Gas Leasing Reform Act of 1987 and its implementing regulations at 36 CFR 228 Subpart E. of federal mineral estate. Refer to figure 1 for the location of the project area.

Background

This decision affects 845,500 acres of NFS lands where the federal surface overlays federally managed oil and gas resources and are available for leasing, of which 216,300 acres are currently not leased. On NFS lands, the Forest Service and BLM share the responsibility for managing federal oil and gas leasing and development. All leases will be issued in accordance with this decision, federal regulations, and other federal management direction.

The grasslands-wide leasing availability decision (36 CFR 228.101(d)) was made in the 2002 Record of Decision for the Dakota Prairie Grasslands Land and Resource Management Plan (Plan decision) along with the specific lands leasing decision from the 2003 Dakota Prairie Grasslands Oil and Gas Leasing Record of Decision (Leasing Decision). This Forest Service decision carries forward most of the stipulations from the availability decision and policies established in the Plan decision and the Dakota Prairie Grasslands Land and Resource Management Plan (Grasslands Plan). Where the interdisciplinary team determined existing stipulations may not be providing adequate protections; or that additional analysis was needed given changes in resources, the best available science, or effects from the change in the pattern and scale of oil and gas development, additional analysis was done and stipulations changed or added, as appropriate.

There are four general categories of ownership pertinent to oil and gas leasing, depending on the combination of surface ownership (surface estate) and mineral ownership (mineral estate). The federal management authority over oil and gas leasing and the application of this ROD depends upon the

ownership of the surface and mineral estates. Within the Little Missouri National Grassland there are approximately 1,027,800 acres of federal surface ownership administered by the Forest Service and 1,000,300 acres of federal mineral estate. The federal mineral estate includes 107,100 acres of split-estate with non-federal surface and federal mineral estates, and 893,200 acres with federal jurisdiction of both surface and mineral estate. Of those acres where federal jurisdiction is both surface and mineral estate, 47,700 acres are not administratively available because they are within Suitable for Wilderness or American Indian Traditional Use management areas.

This decision does not apply to lands where surface and mineral estates are non-federal, or where the surface estate is federal and mineral estate is non-federal. This decision affects federal oil and gas lease proposals that may be made in the future; it does not affect existing federal leases on the Little Missouri National Grassland, unless a lease expires, is relinquished, or is terminated and the lands are re-nominated for leasing.

This decision does not approve any ground disturbing activities. If lands are leased and the lessee, or their designee, subsequently proposes operations, the exploration and development actions proposed in an application for Permit to Drill (APD) would require additional site-specific environmental analysis and decision making.

Legal and Regulatory Context

The purpose of this decision is to determine what stipulations will be applied to those federal mineral acres underlying Forest Service surface to authorize the Bureau of Land Management (BLM) to offer for lease in the Little Missouri National Grassland of the Dakota Prairie Grasslands in accordance with 36 CFR 228.102(e) and 43 CFR 3101.7. Subsequent to leasing, the Forest Service cooperates with the BLM in administering lawful exploration and development of federally-owned leasable minerals. Federal oil and gas resources are managed under the Mineral Leasing Act of 1920, Mineral Leasing Act for Acquired Lands of 1947, the Federal Onshore Oil and Gas Leasing Reform Act of 1987, the Energy Policy Act of 2005. This decision incorporates lease stipulations determined necessary to mitigate effects to surface resources. The decision, lease terms and stipulations are based on analyses documented in the 2002 Northern Great Plains (NGP) Final Environmental Impact Statement (FEIS), as supplemented by the 2020 Final Supplemental Environmental Impact Statement for Oil and Gas Leasing.

Subsequent to the Plan decision, the specific lands leasing decision was made in the 2003 Leasing Decision. The 2020 Oil and Gas SEIS addresses the changed surface footprint of oil and gas development since that decision, with the advent of horizontal drilling in the Bakken Formation around 2007. This change is documented in the Reasonably Foreseeable Development Scenario, updated in 2017.¹ The need for the SEIS is to verify “that oil and gas leasing of the specific lands is adequately addressed in a NEPA document, and is consistent with the Forest [Grasslands] land and resource management plan...” if there is significant new information or circumstances as defined by 40 CFR 1502.9 requiring further environmental analysis, additional environmental analysis shall be done before a leasing decision for specific lands will be made.” (36 CFR 228.101(e)(1)) This analysis is also consistent with the Energy Policy Act of 2005, which encourages updated environmental analysis for leasing stipulations to occur every five years.

¹ The 2003 Oil and Gas Leasing Record of Decision included the Little Missouri and Cedar River National Grasslands. The Oil and Gas SEIS analyzed only the Little Missouri National Grassland, because the reasonably foreseeable development scenario determined that future oil and gas leasing on the Cedar River National Grassland is not likely to occur. No drilling has occurred there since the 1970s.

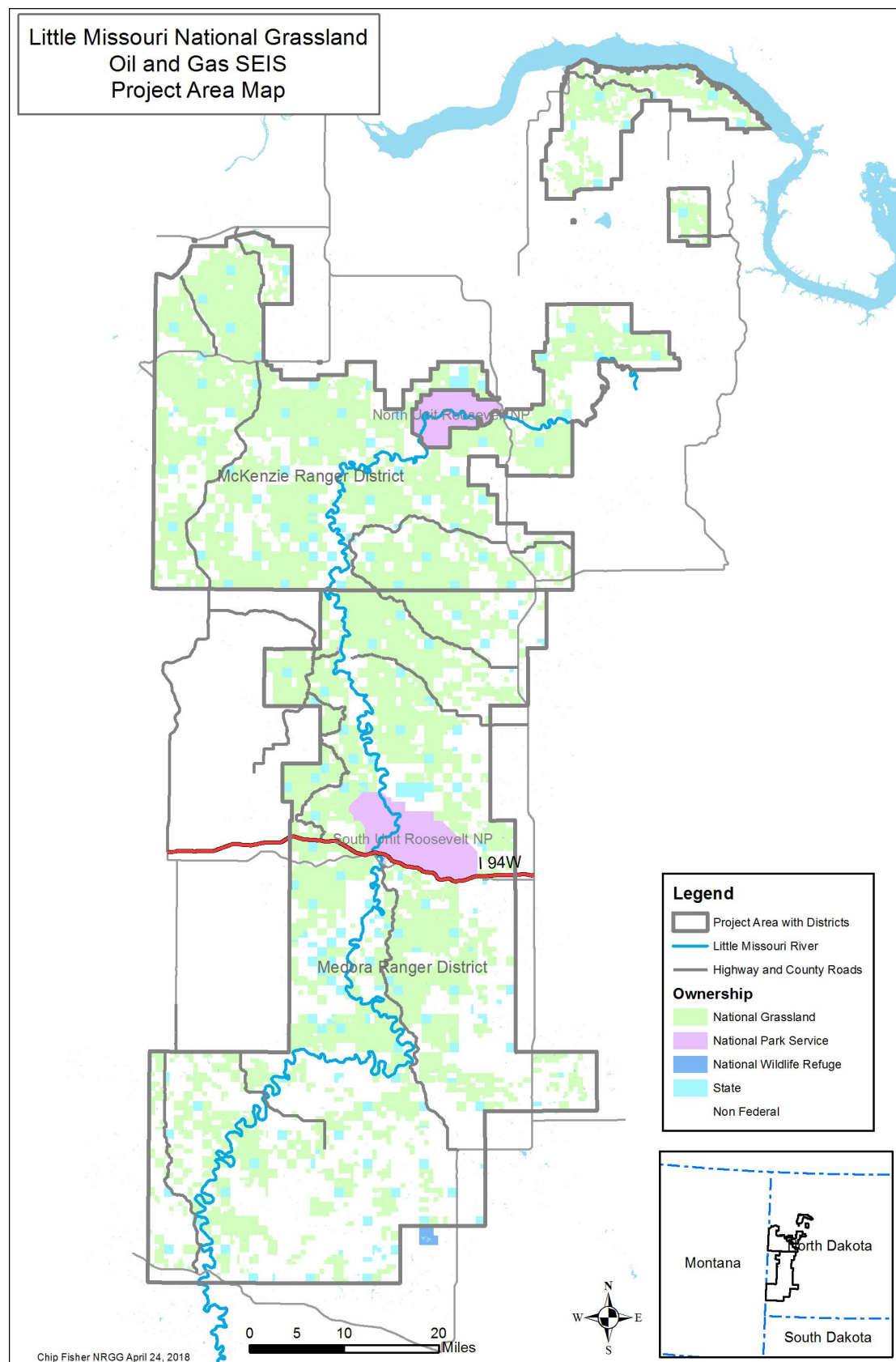


Figure 1. Project area for the oil and gas leasing decision

Bureau of Land Management Role and Authority

On NFS lands, the Forest Service and the Bureau of Land Management (BLM) jointly manage federal oil and gas resources. The BLM is responsible for issuing and managing oil and gas leases under the mineral leasing laws and its regulations at 43 CFR 3100. The BLM cannot issue leases over the objection of, or without consent of the Forest Service (Mineral Leasing Act for Acquired Lands of 1947; FSM 1531.12(q)). The Forest Service identifies the lands administratively available for leasing and authorizes the BLM to lease specific lands. The Forest Service legal authority includes the ability to include stipulations to protect surface resources that address constraints needed to comply with the land and resource management plan and other resource issues.

The BLM's regulations (43 CFR 3101.7) applicable to leasing federal lands administered by an agency outside the Department of Interior require the BLM to review, and through an independent decision, and based on the surface management agency's authorization to lease specific lands, decide whether to offer Forest Service system lands for lease. The Bureau of Land Management has jurisdiction pursuant to oil and gas leasing for federal minerals on National Forest Systems lands. The BLM was officially invited to participate as a cooperating agency, providing technical expertise and review of the supplement. The Oil and Gas Leasing FSEIS and this decision will be sent to the BLM State Director and local BLM officials with a recommendation that the documents be adopted in their entirety.

Staged Approval Process

As leasable mineral resources, federal oil and gas resources are managed according to a staged process in which each stage is subject to its own level of environmental analysis and agency decision making. The first stage involves the leasing process, and then a subsequent stage in which exploration or development operations are proposed. Some level of environmental review or analysis occurs at each stage.

Leasing

First, NFS lands are evaluated for whether they will be open for leasing in consideration of other natural resource concerns and compatibility with other land uses. For National Forest System lands, the Forest Service has authority to identify which of its lands are open to leasing and what surface use and occupancy stipulations are needed to protect other natural resources and uses of those lands. Identifying lands open to lease and necessary stipulations are subject to the agency's environmental analysis and decision-making procedures under the National Environmental Policy Act and associated requirements of nondiscretionary statutes (such as the Endangered Species Act and National Historic Preservation Act). This analysis is conducted either in a stand-alone leasing analysis or in conjunction with land management planning according to procedures at 36 CFR Parts 228 E and 219. The BLM typically participates with the Forest Service in these analyses because they have an independent decision to make regarding leasing the mineral estate.

When specific lands are nominated for lease by industry, the Forest Service and the BLM conduct additional environmental reviews. The Forest Service is responsible to inform the BLM of lands, it does not object or consent to the BLM leasing, and provides the BLM with the surface protection stipulations to be included on the lease. The BLM also has independent responsibility to ensure that it has satisfied its agency's environmental analysis requirements under the National Environmental Policy Act before lands are offered for lease. Supplementary analysis may occur before lands are offered for lease if new circumstances arise that were not part of previous environmental reviews. The BLM has the final decision on whether to offer specific lands for lease.

A lease is a contract between the lessee and the Government that conveys rights to explore for or develop the oil and gas within the lease subject to the terms, conditions, and surface resource protection stipulations on the lease. Proposals for exploration or development operations must be reviewed under a separate regulatory process.

When federal oil and gas leases are issued, they are issued with a 10-year initial term. Generally, a lease expires after 10 years if no exploration or production activity has occurred. If production occurs, then a lease is in effect while it is capable of production in paying quantities or until it is relinquished by the lessee.

Operations

At the operations stage, an oil and gas lessee or operator may propose exploration or production wells on National Forest System lands under its lease by filing an Application for Permit to Drill with the agencies. Lessees or operators may also propose operations by submitting a Master Development Plan that covers multiple wells on multiple leases. These proposals are made according to the procedures in the joint BLM and Forest Service rule, Onshore Order 1, and must also comply with each agency's individual regulations. An operator must design its operations to be consistent with the terms, conditions and stipulations on the lease. Both operators and the agencies must abide by the terms and conditions on the lease.

On National Forest System lands, the Forest Service has authority to approve the Surface Use Plan of Operations portion of an Application for Permit to Drill, subject to additional site-specific conditions of approval for use and protection of National Forest System lands and resources. The BLM is responsible for approving the drilling plan (the downhole portion) of an Application for Permit to Drill and approves the application package as a whole once it receives an approved Surface Use Plan of Operations from the Forest Service. The Forest Service review and approval of the surface use plan of operations is subject to site-specific environmental analysis and decision making under the Forest Service environmental analysis procedures and associated requirements of nondiscretionary statutes. The decision to approve or deny the SUPO will be based on an environmental analysis in compliance with NEPA.

Where other surface disturbing activities such as access roads, pipelines, electrical transmission lines, and staging areas are needed and they are situated outside the boundaries of an oil and gas lease, the Forest Service authorizes those activities under its special use regulations at 36 CFR 251. In USFS Region One these uses are authorized in the Surface Use Plan of Operations (FSM 2800 R1 2822.31e). Commercial use of roads managed by the Forest Service are subject to road use authorization under agency policy at Forest Service Manual 7700.

As established in the mineral leasing laws, an oil or gas producer pays royalties to the United States Government for producing federal oil and gas resources. The mineral leasing laws give the Department of the Interior the authority and responsibility for setting royalty rates, collecting and managing royalty and other payments related to federal oil and gas production on all federal lands, including National Forest System lands. These responsibilities are carried out by the Bureau of Land Management and the Office of Natural Resources Revenue.

Inspection and Compliance

If operations are established on a lease, the Forest Service routinely inspects to ensure that operations are conducted consistent with lease stipulations for surface resource protection and Conditions of Approval on the approved Surface Use Plan of Operations. Operators are notified of noncompliance issues and offered the opportunity to correct them.

Reclamation

Final reclamation activities occur either when an exploration well does not encounter producible quantities of oil or natural gas, or when a producing well fails to continue doing so. Final reclamation includes plugging the well and reclaiming the surface disturbed by operations.

Development of Alternatives

The Draft Oil and Gas SEIS interdisciplinary team analyzed three alternatives. These alternatives included:

1. Continue Oil and Gas Leasing with Current Stipulations;
2. No New Oil and Gas Leasing;
3. Continue Oil and Gas Leasing with Revised Stipulations.

Following public comment on the Draft Oil and Gas Supplement, as the deciding official, I requested the interdisciplinary team to analyze three additional revised stipulations and one lease notice as possible substitutes for stipulations in alternative 3. Those revisions are identified as alternative 3B.

Revised and new stipulations in alternative 3 were limited to those areas where the interdisciplinary team determined existing stipulations may not be providing adequate protections; or that additional analysis was needed given changes in resources, the best available science, or effects from the change in the pattern and scale of oil and gas development. Alternative 3 incorporates the existing stipulations from the Grasslands Plan that have been successful in providing environmental protections, while allowing oil and gas development. The proposed changes in stipulations are designed to comply with current law and are at least as protective as the direction, standards, and guides specified in the current Grasslands Plan.

Lands that are currently leased but not held by production may eventually become available for re-leasing in the future with the stipulations from this decision. While these lands could not be specifically identified and quantitatively analyzed, effects to resources would be equal to or less than the effects of current lease stipulations, described in alternative 1.

Decision

After considering the record of information, the applicable laws and regulations, the purpose and need for the decision, the anticipated environmental impacts of the alternatives analyzed, and the public's comments, I have decided to select a combination of alternatives 1 and 3B, as presented in the Final Supplemental Environmental Impact Statement for Oil and Gas Leasing on the Little Missouri National Grassland. We have been applying most of these stipulations and lease notices since 2003, and experience shows that they are achieving the desired protections. The selected combination of stipulations and lease notices best meets our responsibility to provide for oil and gas extraction, while protecting the environment, consistent with the Grasslands Plan, and complying with laws, regulations, and policy.

Two stipulations and one lease notice from alternative 3B are not included in my decision. For developed recreation sites, I have decided to continue with the stipulations for no surface occupancy and timing limitations from alternative 1, which list the named developed recreation sites where the stipulations will apply. The proposed change was to describe applicable sites as those with a development scale of 3-5, rather than by named sites. I have decided this change was confusing and introduced uncertainty.

An air resource lease notice in alternative 3B may have required oil and gas operators to complete additional reporting to document that diesel engines used during completion meet the current State emission standards or conduct additional near-field emission modeling to demonstrate compliance. After discussion with North Dakota Department of Environmental Quality Air Resources Division, I have decided to defer to the State's authority for permitting and determining compliance with National Ambient Air Quality Standards, as they have the required expertise.

Table 1 shows the currently available unleased federal mineral estate by general stipulation types. Table 2 summarizes the stipulations and lease notices comprising my decision, grouped by resource. Most of the stipulations and lease notices are carried forward from current management. New or revised stipulations are highlighted in the table and explained further below. Attachment A provides the full text, including objectives; application methodologies; and the circumstances that would allow for waivers, exceptions, and modifications. Figure 2 shows unleased available acres by general stipulation types, and figure 3 shows the stipulations from this decision applied to all Forest Service surface estate.

Table 1. General stipulations in this decision apply to unleased available federal acres.

Stipulations in this Decision	Acres
No Surface Occupancy	118,500
Timing Limitations or Controlled Surface Use	60,900
Lands with No Added Stipulations	36,900
Total Lands with Potential for Disturbance	97,800
Total Lands Currently Available to Authorize for Leasing	216,300

Table 2. Stipulations and lease notices to be applied to new federal leases on the Little Missouri National Grassland

Resource	Stipulation or Lease Notice	Area or Rationale that the Stipulation (or Lease Notice) Applies
Water/Woody draws	CSU	Water, wetlands, woody draws, riparian areas, and floodplains
Floodplain/Wetlands	LN	Compliance with E.O. 11988 and E.O. 11990
Soil/ Water	NSO	Slopes greater than 40 percent
Bald Eagle or Falcon	NSO	Within 1 mile (line of sight) of active bald eagle or peregrine falcon nest
Bald Eagle	NSO	Within 1 mile (line of sight) of bald eagle winter roost
Falcon/Burrowing Owl Nest	NSO	Within 0.25 miles (line of sight) of active prairie falcon or burrowing owl nest
Merlin, golden eagle, ferruginous hawk	NSO	Within 0.5 miles (line of sight) of active Merlin, golden eagle, or ferruginous hawk nest
Sharp-tailed grouse	TL	Within 1 mile of sharp-tailed grouse display grounds (3/1-6/15)
Sharp-tailed grouse	NSO	Within 0.25 miles of the center of sharp-tailed grouse display grounds
Sage-grouse habitat	NSO	Priority Habitat Management Areas: NEW
Black-footed Ferret	CSU	Black-footed ferret reintroduction habitat (roaded) (MA 3.63)
Black-footed Ferret	NSO	Black-footed ferret reintroduction habitat (roadless) (MA 3.63)
Black-footed Ferret	TL	Within 0.125 miles of prairie dog colonies occupied by black-footed ferrets (3/1-8/31) (Outside MA 3.63)

Resource	Stipulation or Lease Notice	Area or Rationale that the Stipulation (or Lease Notice) Applies
Black-footed Ferret	CSU	Within prairie dog colonies occupied by black-footed ferrets (Outside MA 3.63)
Bighorn Sheep	NSO	Bighorn Sheep Habitat (MA 3.51)
Bighorn Sheep Lambing Areas	TL	Within 1 mile of bighorn sheep lambing areas 4/1-7/15 (Outside of MA 3.51): REVISED
Bighorn Sheep	CSU	Within 1-mile sight distance of bighorn sheep lambing grounds (Outside of MA 3.51)
Bighorn Sheep	Not currently authorized; when leased CSU & TL	MA 3.51A Bighorn Sheep with non-federal mineral ownership
Bighorn Sheep	CSU & TL	MA 3.51B Bighorn Sheep with non-federal mineral ownership
Pronghorn Antelope	TL	Within mapped antelope winter range (1/1-3/31)
Swift Fox	TL	Within 0.25 miles of swift fox dens (3/1-7/31)
Rare Plants	NSO	Within 200 feet of mapped populations for Dakota buckwheat, nodding buckwheat, and sand lily: NEW
TES Species	LN	Threatened, Endangered and Sensitive Plant or Animal Species
RNA	NSO	Protect MA 2.2 Research Natural Areas
Special Interest - Paleontology or Geologic Areas	CSU	Special Interest Areas – Paleontology and Geologic Resources - Slope Formation Type Section, Cannonball/Slope Formation Outcrop, Bullion Creek Formation Type Section
Special Interest - Heritage Areas	NSO	Special Interest Areas – Heritage Resources - Battle of the Badlands, Custer Trail/Davis Creek, and Square Buttes
Special Interest - Botanical Areas	NSO	Special Interest Areas – Botanical Resource - Aspen Stand, The Bog, Grand River Sand Dunes, Black Butte, Black Cottonwood, Riparian Pools, and Roundtop Butte
Special Interest - Geologic Areas	NSO	Special Interest Areas – White Buttes, Burning Coal Vein/ Columnar Juniper, and Ice Caves
Recreation Sites	NSO	Developed Recreation Sites - Burning Coal Vein, Buffalo Gap, Sather Lake, CCC, and Summit Campgrounds; White tail Picnic Areas; and six Maah Daah Hey Trail overnight camps: Wannagan, Roosevelt, Elkhorn, Magpie, Beicegel, and Bennett
Recreation Sites	TL	Within 0.25 miles of Burning Coal Vein, Buffalo Gap, Sather Lake, CCC, and Summit Campgrounds, Whitetail Picnic Areas, and six Maah Daah Hey Trail overnight camps: Wannagan, Roosevelt, Elkhorn, Magpie, Beicegel, and Bennett (5/1-12/1)
Non-motorized	NSO	MA 1.31 – Back country non-motorized
Scenic High	CSU	Areas of High Scenic Integrity, surface occupancy will be subject to operational constraints to maintain landscape character intact including within 1 mile of Theodore Roosevelt National Park
Scenic Moderate	CSU	Areas of Moderate Scenic Integrity, surface occupancy will be subject to operational constraints to maintain a landscape character that is no more than slightly altered
Heritage Resources	NAA	MA 2.4 - American Indian traditional use areas
Heritage Resources	NSO	National Register eligible sites

Resource	Stipulation or Lease Notice	Area or Rationale that the Stipulation (or Lease Notice) Applies
Heritage and Cultural Resources	LN	Comply with Archaeological Resources Protection Act, National Historic Preservation Act, American Indian Religious Freedom Act
Scenic River	NSO	MA 4.22 - areas within 0.25 miles of Little Missouri River
Paleontology	LN	Paleontological resources to include any fossilized remains, not limited to vertebrate fossils: REVISED
Paleontology	CSU	Paleontological resources on areas of non-federal surface and federal subsurface
Roadless	CSU	Allow well pads within 0.25 miles of the centerline of maintenance level three, four and five roads existing when leased: NEW
Roadless	NSO	Within inventoried roadless areas beyond 0.25 miles from existing maintenance level 3, 4, and 5 roads: NEW

Rationale for New Sage-grouse Stipulation

A stipulation of no surface occupancy in priority habitat management areas is consistent with recommendations from the Sage-Grouse National Technical Team, current leasing stipulations for the Bureau of Land Management that were implemented with the 2015 resource management plan sage-grouse amendments, and the 2014 sage-grouse conservation recommendations from the State of North Dakota Game and Fish Department.

The 2006 memorandum of understanding for oil and gas leasing between the Forest Service and Bureau of Land Management states, “The BLM and Forest Service will coordinate leasing decisions and application of lease stipulations to ensure consistency and appropriate applicability of lease stipulations.” The priority habitat management area was delineated by and obtained from Montana/Dakotas Bureau of Land Management.

North Dakota is on the edge of the current range of greater sage-grouse, and habitat is recognized only in the southwestern corner of the state. A portion of the priority habitat in North Dakota is located in the southwest corner of the Little Missouri National Grassland. While there have been no sage-grouse documented on the Little Missouri National Grassland for over five years, the emphasis of this stipulation is to preserve high quality sagebrush habitat.

This stipulation may be waived over the entire lease if, in coordination with the North Dakota Game and Fish Department, it is determined that the area holds limited value for sage-grouse life cycle needs compared to neighboring lands (e.g., state, private, etc.), as determined by the state wildlife agency, and doing so would lead to greater benefits to sage-grouse on those lands. Exceptions and modifications may be allowed when doing so would improve management opportunities in areas of higher habitat value on neighboring lands or more effective sage-grouse habitat management and conservation at the landscape scale.

Continued coordination with North Dakota Game and Fish Department will be important to implementing the stipulation and to determine the cross-boundary context of sage-grouse habitat, population trends, and other management factors (FSEIS 94, 103, 108).

Rationale for Revised Bighorn Sheep Stipulation

The Grasslands Plan contains direction to protect bighorn sheep lambing areas from activities and land use disturbances if adverse impacts to the survival or reproductive success of bighorn sheep or abandonment of the lambing area are likely (pg. 1-14). Wildlife biologists have found that areas with low disturbance have higher lamb recruitment than areas with moderate to high disturbance levels.

A timing limitation currently exists to prevent surface use within one mile of lambing areas from April 1 through June 15. However, staff with North Dakota Game and Fish Department expressed concerns that the existing stipulation is inadequate, given the variability of parturition dates in bighorn sheep lambing. In North Dakota, parturition is typically during May, but lambs are born into June. Thus, the average lamb may be newborn to 3 weeks old when the timing limitation expires for leases near lambing habitat. Younger lambs are likely more vulnerable to the various stresses of drilling and completion activities for oil and gas if they begin in mid-June near an active lambing area.

For these reasons, I am revising the timing limitation within one mile of bighorn sheep lambing areas to extend from April 1 through July 15. The Grasslands will continue to work with North Dakota Game and Fish to verify and respond to shifts in bighorn sheep lambing areas, with the intent to allow activities that can be adequately mitigated to safeguard lamb survival and prevent bighorn sheep displacement from lambing areas (FSEIS 95, 103).

Rationale for New Rare Plants Stipulation

This stipulation applies to known mapped populations of three sensitive plant species: Dakota buckwheat (*Eriogonum visheri*), nodding buckwheat (*Eriogonum cernuum*), and sand lily (*Leucocrinum montanum*). These species are rated as “imperiled” in North Dakota and at high risk for local extirpation. No surface occupancy around known populations reduces the risk of impacting a large proportion of three known occurrences in the project area (e.g., impacting one of the three known sand lily occurrences), which could reduce viability for these species due to the small population sizes. A 200-foot buffer around each population ensures that the full extent of each occurrence will be protected.

These species have very few populations on the Little Missouri National Grassland, so impacts from oil and gas surface activities could reduce the capacity to maintain the species within the planning area. The objective is to ensure that the species do not become locally extirpated and to prevent a trend toward federal listing under the Endangered Species Act (FSEIS 109-122).

Rationale for Revised Paleontological Lease Notice

The Paleontological Resources Protection Act of 2009 specifies that any fossilized remains, traces, or imprints of organisms preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth should be protected from disturbance or destruction.

The current lease notice, adopted in 2003, protects only vertebrate fossils. Therefore, I am revising the paleontological lease notice to comply with current law.

The lease notice requires that prior to undertaking any surface-disturbing activities, the lessee or operator must contact the Forest Service to determine if a site-specific paleontological inventory is required. If an inventory finds paleontological resources, mitigation measures will be designed to preserve or avoid destruction of those resources (FSEIS 159-161).

Rationale for New Roadless Area Stipulations

On January 12, 2001, the Special Areas, Roadless Area Conservation Final Rule, 66 FR 3244, (Roadless Rule) was signed by Secretary of the U. S. Department of Agriculture Dan Glickman. The Roadless Rule is codified at 36 CFR 294 Subpart B (2001). The Roadless Rule prohibits new road construction and timber harvest in inventoried roadless areas (IRAs) subject to exceptions. Specific exemptions allow for roads in conjunction with the continuation, extension, or renewal of a mineral lease (36 CFR 294.12(b)(7)) and for roads pursuant to reserved or outstanding rights (36 CFR 294.12(b)(3)). Subsequently, eight lawsuits, involving seven states in six judicial districts of four federal circuits were filed against the rule. Legal challenges to the Roadless Rule were resolved in a decision by the Tenth Circuit Court of Appeals on October 21, 2011, and the Rule was reinstated.

During the 10 years of legal uncertainty, the Chief of the Forest Service issued direction to consider the protection and management of roadless areas appropriately through forest planning. The Grasslands Plan decision selected management of almost 220,000 acres of Little Missouri National Grassland inventoried roadless areas to retain their current roadless character by prohibiting future road construction (with exceptions for existing lease rights), while keeping these lands available for federal oil and gas leasing. With the 2003 Leasing ROD, we adopted the current lease notice that the Roadless Rule may prohibit operations such as road construction or reconstruction.

Now that the legal challenges have been fully resolved, I am adopting stipulations to comply with the Roadless Rule, in order to provide more certainty and specificity to federal leases. The Roadless Rule prohibits new road construction but does not prohibit other construction. In some places within or adjacent to inventoried roadless areas on the Little Missouri National Grassland, there are existing roads which would accommodate oil and gas exploration and development (maintenance level 3, 4, or 5 roads). The stipulation for controlled surface use will allow construction of well pads within 0.25 miles from the centerline of such roads that exist at the time of leasing. The edge of the well pad must be directly adjacent to the existing road right-of-way, and the longitudinal axis must be parallel to the road. The objective is to prevent landscape fragmentation and preserve roadless area values and characteristics while providing for energy development needs.

Outside of this corridor, no surface occupancy is allowed, based on the assumption that exploration, development, and operation of a producing oil and gas well cannot occur without the well pad being accessible by a road, which would require new road construction or substantial reconstruction (FSEIS 133, 136-137).

Revised Wording for Exceptions

As the deciding official, I have revised the wording for exceptions, where included in a stipulation, to add greater clarity regarding the process for granting exceptions and to include the resource objective of each stipulation in the exceptions wording. The general revised wording is:

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to [satisfy the specified objective of the stipulation].

Other Alternatives Considered

I considered four alternatives, of which alternative 3B was the environmentally preferred alternative. A more detailed comparison of the alternatives can be found in the FSEIS on pages 11 through 34.

All of the alternatives for continued federal leasing had some stipulations in common. These common stipulations included resources where the interdisciplinary team determined that existing protections have been adequate and no changes in the underlying resource, regulations, or the latest science necessitated further analysis. My decision includes a mix of stipulations and lease notices from alternatives 1 and 3B. The Oil and Gas SEIS fully analyzed each of the stipulations and lease notices.

All of the alternatives considered a total of 213,600 acres of available unleased federal lands. For the purposes of analysis, we assumed that 620 wells will be developed over the next 10 years. See the detailed discussion in chapter 2 of the supplement.

Alternative 1 – Continue Leasing with Current Stipulations

Alternative 1 is considered the no-action alternative, in which current stipulations and lease notices would continue to guide management of oil and gas development on the Little Missouri National Grassland. This alternative includes all the stipulations and lease notices from the previous specific lands decision in the 2003 Oil and Gas Leasing ROD. Current leases that may become available in the future would be leased again under the same set of stipulations and lease notices.

Under this alternative, 75,100 acres would have stipulations of no surface occupancy. Oil and gas resources on these acres could be accessed by horizontal drilling, but no surface disturbance would be allowed. The remaining 141,200 acres could see surface developments of some kind. A total of 97,700 acres would have stipulations for timing limitations, controlled surface use, or both, and 43,500 acres would have no stipulations, beyond standard lease terms, specified in the lease.

Alternative 2 – No New Oil and Gas Leasing

This alternative would limit oil and gas leasing on the Little Missouri National Grassland to current valid leases. No currently unleased areas would be offered for lease, and as current leases expire, they would remain unleased. Therefore, stipulations and lease notices are not applicable.

This alternative applies to unleased areas of federal minerals with Forest Service surface within the administrative boundary of the Little Missouri National Grassland. This alternative would add another 216,300 acres to Little Missouri National Grassland lands not currently authorized or administratively available, for a total of 264,000 acres. This alternative would not apply to areas where minerals are federally owned but the surface is not federally owned, or to any areas where the minerals are owned by a non-federal entity.

Currently held leases would not be affected by this alternative, but would continue to operate under the stipulations and conditions in place when the lease was signed. New oil and gas development would continue under this alternative for currently authorized, but as yet undeveloped leases. When current leases expire, they would not be offered for lease again.

Alternative 3 – Continue Leasing with Revised Stipulations

For this alternative, of the 216,300 acres of the Little Missouri National Grassland that are currently available and unleased, 107,800 acres would have no surface occupancy stipulations. Of the remaining 108,500 acres where surface development could occur, 77,600 would have stipulations for timing limitations or controlled surface use, or both, and 30,900 acres would have no stipulations beyond the standard lease terms.

The new and revised stipulations were developed in alternative 3 to comply with current law and to provide additional protections for resources of concern. All existing stipulations and lease notices (as described for alternative 1) would remain in effect, except as indicated below:

- New stipulations for sage-grouse display grounds (leks) would include a timing limitation that limits noise at the lek perimeter and road and trail maintenance within 2 miles of an active lek during the breeding season. (Stipulations for sharp-tailed grouse display grounds would remain as currently written). New stipulations for controlled surface use would limit disturbance to leks and reduce impacts to areas of high-density sagebrush.
- New stipulations for no surface occupancy would be added for recreation sites, rare plants, and roadless areas to provide more reliable protections and flexibility to protect new recreation sites that may be developed in the future.
- The lease notice for paleontological resources would be revised to comply with current law.
- The general wording for exceptions, where allowed, for stipulations carried forward from alternative 1 would be revised to read:

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to [satisfy the specified objective of the stipulation].

Alternative 3B – Continued Leasing with Additional Revisions

Alternative 3B comprises the stipulations and lease notices with revisions or additions that were suggested in comments on the draft supplemental environmental impact statement. Suggestions were reviewed by the interdisciplinary team to determine if the change was already covered by standards and guides in the Grasslands Plan or by other laws or regulations. The changes in alternative 3B result from the recommendations of the interdisciplinary team.

The resources covered by new or revised stipulations include sage-grouse habitat, inventoried roadless areas, and bighorn sheep lambing areas. This alternative includes an additional lease notice for air resources. All resource protections from alternatives 1 and 3 that are not revised and replaced by stipulations for the same resource in alternative 3B are carried forward as part of alternative 3B.

For this alternative, of the 216,300 acres of the Little Missouri National Grassland that are currently available and unleased, 118,500 acres would have no surface occupancy stipulations. Of the remaining 97,800 acres where surface development could occur, 60,900 would have stipulations for timing limitations or controlled surface use, or both, and 36,900 acres would have no stipulations beyond the standard lease terms.

Public Involvement and Consultation with Others

Scoping and Public Comment

A notice of intent for the preparation of this supplemental environmental impact statement was originally published in the Federal Register on December 19, 2012. We did not solicit public comment at that time (pursuant to regulations at 40 CFR 1502.9(c)(4)). A revised notice of intent was published on August 8, 2015 with a request for comments on the project. We mailed a scoping letter describing the proposed action to over 90 organizations and individuals, and published notice in the Bismarck Tribune, the newspaper of record on September 14, 2015 with a request that comments be submitted by October 5, 2015. We received a total of eight comment letters and one petition.

We released the draft supplemental environmental impact statement to interested members of the public, Native American Tribes, and local, state, and federal agencies with the publication of the notice of availability in the Federal Register on November 2, 2018. The original 45-day comment period was extended an additional 30 days. During this extension, a five-week federal government-wide furlough ensued. Because of the furlough, I, as the Grasslands supervisor, extended the comment period to compensate for the furlough period.² We received a total of 34 comment letters between November 2, 2018 and February 21, 2019 when the comment period closed.

Tribal Consultation

We mailed the public scoping letter to officials of the following Native American Tribes: Standing Rock Sioux Tribe, Three Affiliated Tribes, Turtle Mountain Band of Chippewa, Spirit Lake Sioux Tribe, and Lower Brule Sioux Tribe. We received no written comments from the Tribes.

We then initiated formal government-to-government consultation with these Native American Tribes in August 2018 via letter and other correspondence. The Northern Cheyenne Tribe requested formal government-to-government consultation.

In addition to scoping, the Dakota Prairie Grasslands archaeologist has coordinated with Tribal historic preservation officers for the Standing Rock Sioux, the Three Affiliated Tribes, and the Spirit Lake Sioux for consideration of the management of the Blue Buttes area, relative to oil and gas leasing.

Cooperating Agencies

Five different entities have formal status as cooperating agencies for this project, providing expertise and assistance with the analysis and reviewing the supplemental environmental impact statement. Federal cooperating agencies include the Bureau of Land Management and the National Park Service. Three counties also signed agreements as cooperating agencies: Billings, McKenzie, and Slope Counties.

Several state agencies, while not being formal cooperators, also contributed information and expertise. These included North Dakota Department of Environmental Quality for both air quality and water quality; North Dakota Game and Fish Department for information regarding sage-grouse, bighorn sheep, pronghorn antelope, and other species; North Dakota Department of Mineral Resources, Industrial Commission for information regarding oil and gas production, flaring, well development, fracking water use, and well lifespan.

Findings Required by Other Laws and Regulations

This decision to lease specific lands with the specified stipulations and lease notices is consistent with the intent of the Dakota Prairie Grasslands Plan long-term goals and objectives listed on pages 1-1 to 1-8. The project was designed to conform with Grasslands Plan standards and incorporates appropriate plan guidelines for all physical resources; fish, wildlife and rare plants; noxious weeds and invasive species; recreation; scenery management; heritage resources; and special uses (Grasslands Plan, pages 1-9 to 1-27).

This decision also complies with the laws and regulations listed below.

² The comment period was extended exactly as long as the furlough.

National Forest Management Act

Every National Forest unit is required to develop a Land and Resource Management Plan by the National Forest Management Act of 1976 (NFMA). The Grasslands Plan was approved in 2002. Implementation is designed to provide for multiple use and sustained yield of goods and services from the National Forest System in a way that maximizes long-term net public benefits in an environmentally sound manner (36 CFR 219.1(a)). The Grasslands Plan guides all natural resource management activities, including federal oil and gas leasing, and establishes resource management standards. Determining an appropriate leasing program through this analysis will help implement the Grasslands Plan.

This decision is consistent with the oil and gas leasing availability decision in the 2002 Record of Decision for the Dakota Prairie Grasslands Land and Resource Management Plan for lands administered by the Dakota Prairie Grasslands and will implement the direction and stipulations for leasing currently described in appendix D of the Grasslands Plan. Changes in stipulations from this decision are necessary to better adhere to the direction, standards, and guides in the plan, and do not constitute a change to the plan itself.

National Environmental Policy Act (NEPA)

The Oil and Gas Leasing SEIS analyzes the changes in the pattern of oil and gas development in the context of the Little Missouri National Grassland's ecological resources and the continued production of ecological goods and services. Alternatives included continued federal leasing with current management ("no-action"), no new federal leasing, and continued federal leasing with revised management. The final SEIS and this decision comply with the intent and requirements of the National Environmental Policy Act and the provisions of the Act have been followed as required under 40 CFR 1500.

Clean Air Act

The task of identifying National Ambient Air Quality Standards is assigned by the Clean Air Act to the Environmental Protection Agency. The Environmental Protection Agency evaluates and updates these standards every 5 years. The Act requires geographic areas within a state to be designated as attainment, nonattainment, or unclassifiable based on National Ambient Air Quality Standards monitoring data. It also requires states to prepare State Implementation Plans for assuring that the National Ambient Air Quality Standards are met. Further, the Act requires Federal agencies to comply with General Conformity rules. Under General Conformity, federal actions must not interfere with goals of the State Implementation Plan. Federal oversight of the law is provided by the U.S. Environmental Protection Agency.

State and Local Law

The North Dakota Department of Health performs regulatory monitoring of the criteria pollutants to ensure compliance with established primary and secondary National Ambient Air Quality Standards. Additionally, North Dakota Department of Health has established North Dakota Ambient Air Quality Standards for some criteria pollutants, as well for sulfur dioxide (SO₂) and a non-criteria pollutant, hydrogen sulfide (H₂S).

The analysis found no exceedances of the National Ambient Air Quality Standards would be expected from the reasonably foreseeable development of 620 new wells over 10 years. This action is consistent with the Clean Air Act as analyzed in the Air Quality section of chapter 3 of the supplemental environmental impact statement and the supplemental environmental impact statement.

The analysis in the Oil and Gas Leasing Supplement, along with additional details in the Air Quality Report, demonstrate compliance with the Clean Air Act and the implementing state laws.

Clean Water Act

The Federal Clean Water Act provides for restoration and maintenance of the chemical, physical and biological integrity of waters in the United States. The Act regulates the discharge of pollutants into waters through point sources. In addition, it provides for management of non-point source pollution by States. Pertinent sections include Water Quality Standards and Implementation Plans (33 U.S.C. § 1313), Certification (33 U.S.C. § 1341), National Pollutant Discharge Elimination System (33 U.S.C. § 1342) and Permits for Dredged or Fill Material (33 U.S.C. § 1344). Wetlands are regulated in accordance with Federal Non-Tidal Wetlands Regulations (sections 401 and 404).

State and Local Law

North Dakota Administrative Code Chapter 33-16-02.1 Standards of Quality for Waters of the State: establishes a system for classifying waters of the state; provide standards of water quality for waters of the State; and protect existing and potential beneficial uses of waters of the State.

No dredging or filling is part of this action and no permits are required. This decision will not affect conditions with respect to State-listed impaired streams, as detailed in the Surface Water section of chapter 3 of the supplemental environmental impact statement. This project complies with all appropriate requirements in the Clean Water Act.

Endangered Species Act

The Endangered Species Act (ESA) (16 USC 1531 et seq.) requires that any action authorized by a Federal agency not result in a determination of "likely to jeopardize the continued existence of a threatened or endangered species, or result in the destruction or adverse modification of the critical habitat of such species." Species analyzed are those whose presence, potential presence, or habitat are found in the project area or surrounding area of influence.

Since the signing of the 2003 Oil and Gas Leasing ROD, two species that occur in the Little Missouri National Grassland were listed as threatened under the Endangered Species Act: the Dakota skipper and the northern long-eared bat. Both species occur in habitats that are widespread on the Grassland: respectively, native prairie grassland with a high diversity of forbs, and broadleaf woodlands. However, both species have few documented occurrences, and the factors that determine occupancy are not well understood. The lease notice for threatened, endangered, and sensitive species ensures that operators will complete the appropriate surveys when development is proposed, and, if listed species are present, the Forest Service will consult with the U.S. Fish and Wildlife and implement site-specific conservation measures, as directed by U.S. Fish and Wildlife.

Other listed species analyzed in the 2002 leasing availability decision include least tern, pallid sturgeon, and piping plover, all of which are associated with Lake Sakakawea and its shoreline. Approximately 330 feet of shoreline occurs in unleased available lands, where stipulations for water and wetlands mitigate impacts to the water. These stipulations have been carried forward from the original document.

The Dakota Prairie Grasslands submitted a biological assessment to the U.S. Fish and Wildlife Service, North Dakota Ecological Services Office for concurrence with the finding of "may affect, not likely to adversely affect" listed species and designated critical habitat. The Service has concurred with our biological assessment and provided recommended minimization measures, to be implemented where practicable. Some of the recommendations, such as controlling fugitive dust, are standards required by state and county permits, as well as by the Grasslands Plan. Recommendations for surveys or to mitigate effects to listed species will be followed where those species may be impacted.

National Historic Preservation Act

The National Historic Preservation Act of 1966 protects historic and archaeological values during the planning and implementation of federal projects (36 CFR 800 and 36 CFR 60). The law outlines the section 106 compliance process and requires the location and identification of heritage resources during the planning phase of a project, a determination of "significance" (based on scientific archaeological values) for potentially affected resources, and provisions for mitigation of any significant sites that may be affected.

This proposed project complies with the Grasslands Plan, policies, and applicable regulations and laws regarding historic properties. All areas of potential effect will be surveyed for cultural heritage resources prior to implementing any ground-disturbing activities, and all identified eligible and unevaluated cultural heritage sites will be avoided during earth disturbing activities. Any previous surveys of the areas of potential effect will be consulted and relied upon, provided surveys were adequate. The stipulations and lease notice for cultural resources in this decision ensure the protection of these resources, in coordination with the North Dakota State Historic Preservation Office.

Paleontological Resources Protection Act

As discussed above, the revised lease notice for paleontological resources in this decision fully supports and complies with the 2009 Act, covering all fossilized remains of vertebrates, invertebrates, plants, and imprints.

Administrative Review or Objection Opportunities

This decision is subject to objection pursuant to 36 CFR Part 218, Subparts A and B. For this project, individuals or organizations who submitted timely and specific written comments about the proposed project in response to either the designated scoping period or the comment period will be considered to have standing to object under 36 CFR 218, Subparts A and B. Notices of objection must meet the content requirements at 36 CFR 218.8. Objections must be filed by way of regular mail, e-mail, or express delivery with the Objection Review Officer, USDA Forest Service, Northern Region, 26 Fort Missoula Road, Missoula, Montana 59804. During coronavirus pandemic operations, we are allowing hand delivery of objections by appointment only. Please call (406) 329-3511 to make such arrangements.

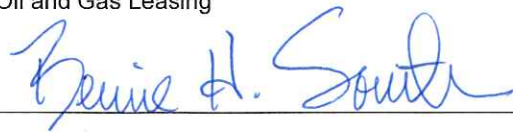
Electronic appeals must be submitted in a format such as an e-mail message, or a document in plain text (.txt), rich text format (.rtf), or Word (.doc) to appeals-northern-regional-office@usda.gov with the subject: Dakota Prairies Oil and Gas Leasing. In cases where no identifiable name is attached to an electronic message, a verification of identity will be required. A scanned signature is one way to provide verification.

Objections, including attachments, must be filed within 45 days from the publication date of this notice in the Bismarck Tribune, the newspaper of record. Attachments received after the 45-day appeal period will not be considered. The publication date in the newspaper of record is the exclusive means for calculating the time to file an objection. Those wishing to object to this project should not rely upon dates or timeframe information provided by any other source.

Contact Person

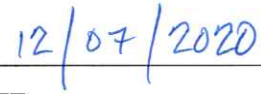
For additional information concerning this decision or the Forest Service appeal process, contact Macario Herrera, REALM Staff Officer, Dakota Prairie Grasslands, 2000 Miriam Circle, Bismarck, ND 58501; phone (701) 989-7310.

Oil and Gas Leasing

A handwritten signature in blue ink, reading "Bennie H. South", is written over a horizontal line.

BENNIE H. SOUTH
Grasslands Supervisor
Dakota Prairie Grasslands

Dakota Prairie Grasslands

A handwritten date "12/07/2020" in blue ink is written over a horizontal line.

DATE

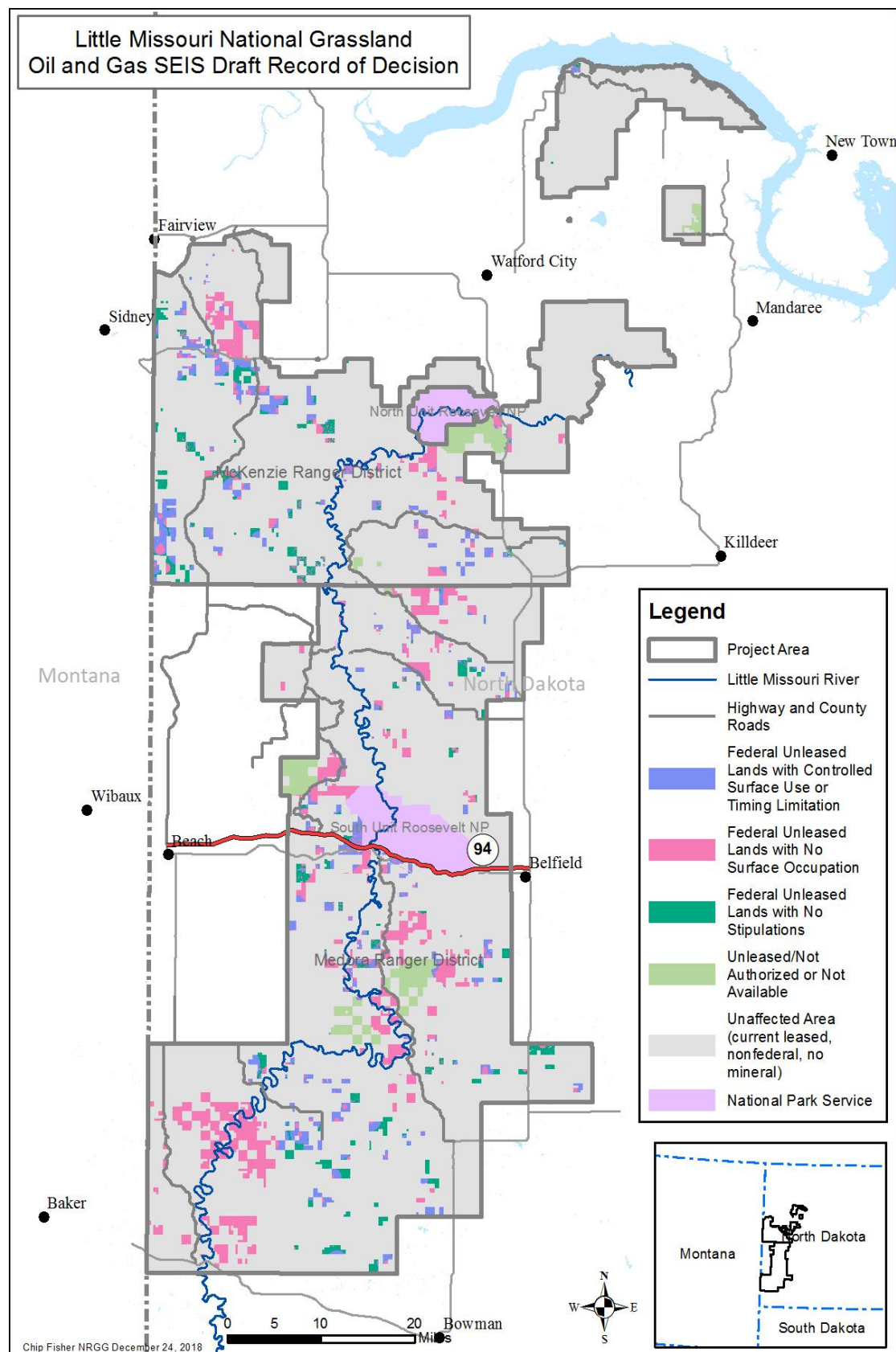


Figure 2. Stipulations from this decision applied to unleased available Forest Service lands

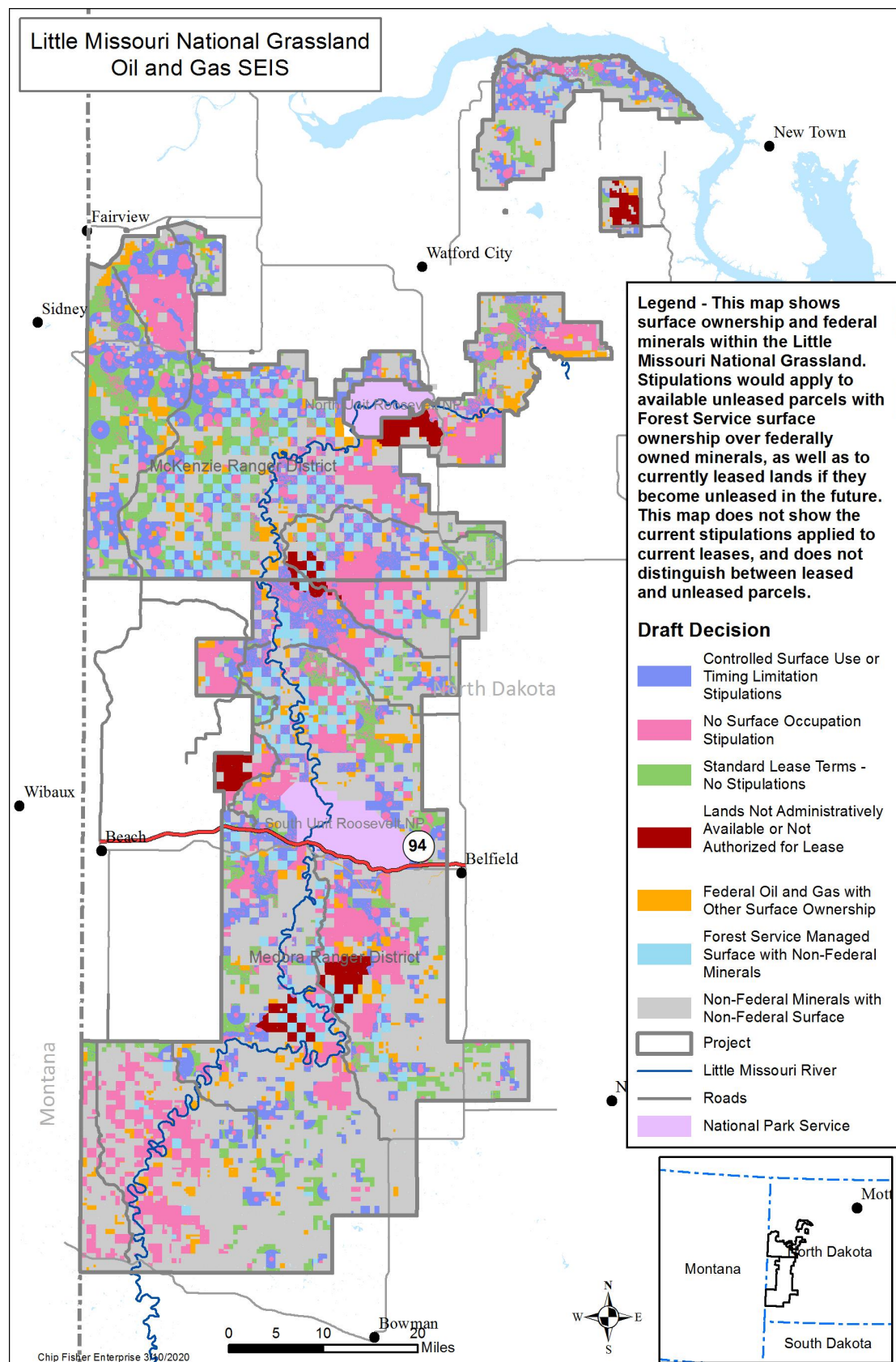


Figure 3. Stipulations applied to all Forest Service surface with federal minerals

Attachment A - Stipulations and Lease Notices for the 2020 Draft Record of Decision for Oil and Gas Leasing

The following terms are used relative to the lease stipulations:

- **Stipulation:** A provision that modifies standard lease rights and is attached to and made a part of the lease. Stipulations have been developed for the following categories: 1) no surface occupancy, 2) timing limitations or seasonal restrictions, and 3) controlled surface use.
- **Not Currently Authorized for Leasing (NCA):** Lands are determined to be administratively available for leasing, but the decision to lease is withheld until some future time.
- **No Surface Occupancy (NSO):** Use or occupancy of the land surface for fluid mineral exploration or development is prohibited to protect identified resource values.
- **Timing Limitation (TL) (Seasonal Restriction):** Prohibits surface use during specified time periods to protect identified resource values. This stipulation primarily applies to drilling and well completion. It does not apply to the operation and maintenance of production facilities, unless the findings of analysis demonstrate the continued need for such mitigation and that less stringent, project-specific mitigation measures would be insufficient.
- **Controlled Surface Use (CSU):** Use and occupancy is allowed (unless restricted by another stipulation), but identified resource values require special operational constraints that may modify the lease rights. Controlled surface use is used for operating guidance, not as a substitute for no surface occupancy or timing stipulations.
- **Operation and Maintenance Activities:** Those actions needed to operate and maintain facilities to ensure they remain in a safe and functional order and to facilitate production of oil and gas resources at those facilities as designed. Examples of operations and maintenance activities include, but are not limited to, site inspections, monitoring, product removal, equipment maintenance and repair, etc.
- **Lease Notice (LN):** Provides more detailed information concerning limitations that already exist in law, lease terms, regulations, or operational orders. A lease notice also addresses special items the lessee should consider when planning operations but does not impose new or additional restrictions.
- **Waiver (oil and gas leasing):** Permanent exemption from a lease stipulation. Waivers can be granted if the condition described in the stipulation no longer applies anywhere in the leasehold.
- **Exception (oil and gas leasing):** Case-by-case exemption from a lease stipulation. The stipulation continues to apply to all other sites within the leasehold to which the restrictive criterion applies.
- **Modification (oil and gas leasing):** Modifications are similar to exceptions, but broader in scope, and involve a fundamental change to the provisions of the stipulation. They can be granted either temporarily or for the duration of the lease. A modification may include an exemption from or alteration to a stipulated requirement. Depending on the specific modification, the stipulation may or may not apply to all other sites within the leasehold to which the restrictive criteria applied.
- **Standard Lease Terms (SLT):** The terms incorporated into every oil and gas lease. Standard lease terms require compliance with all laws and regulations to ensure protection of other energy, mineral, and surface resources. Under standard lease terms, the authorized officer has limited authority to

modify the siting and design of facilities and to control the rate of development and timing of activities as well as require other mitigation under standard lease terms (BLM Form 3100-11 and 43 CFR 3101.1-23).

Stipulations

Surface Water

Water, Wetlands, Woody Draws, Riparian, and Floodplains

Controlled Surface Use (CSU)

Stipulation

Try to locate activities and facilities away from the water's edge and outside the riparian areas, woody draws, wetlands, and floodplains. If necessary to locate facilities in these areas, then:

- Deposit no waste material (silt, sand, gravel, soil, slash, debris, chemical or other material) below high water lines, in riparian areas, in the areas immediately adjacent to riparian areas or in natural drainageways (draws, land surface depressions or other areas where overland flow concentrates and flows directly into streams or lakes).
- Deposit no soil material in natural drainageways.
- Locate the lower edge of disturbed or deposited soil banks outside the active floodplain.
- Stockpile no topsoil or any other disturbed soil in the active floodplain.
- Locate drilling mud pits outside riparian areas, wetlands and floodplains. If location is unavoidable in these areas, seal and dike all pits to prevent leakage or use containerized mud systems.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Water, number 6 (p. 1-10). This stipulation is to protect the biological and hydrologic features of water bodies, riparian areas, woody draws, wetlands, and floodplains.

Application Methodology

Use this stipulation in riparian areas, woody draws, wetlands, and floodplains that are greater than 400 meters wide. Regulation 43 CFR 3101.1-2 includes measures to relocate operations up to 200 meters and to delay operations up to 60 days in any lease year. Therefore, use standard lease terms for areas less than 200 meters from edge.

Waivers

This stipulation may be waived if the authorized officer determines the entire leasehold no longer contains any riparian areas, woody draws, wetlands, or floodplains.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to protect the biological and hydrologic features of water bodies, riparian areas, woody draws, wetlands, and floodplains.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include water bodies, riparian areas, woody draws, wetlands, and floodplains.

Soils**Slopes Greater than 40 Percent***No Surface Occupancy (NSO)***Stipulation**

Surface occupancy and use is prohibited on slopes greater than 40 percent.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Soils, number 4 (p. 1-11). The objective of this stipulation is to protect soil resources from loss of productivity, prevent erosion on steep slopes, soil mass movement, and resultant sedimentation.

Application Methodology

Use this stipulation on slopes greater than 40 percent.

Waivers

This stipulation may be waived if the authorized officer determines conditions have changed and the entire leasehold no longer contains any slopes greater than 40 percent.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to protect soil resources from loss of productivity, prevent erosion on steep slopes, soil mass movement, and resultant sedimentation.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include slopes greater than 40 percent.

Wildlife**Bald Eagle and Peregrine Falcon Nests***No Surface Occupancy (NSO)***Stipulation**

No surface occupancy or use is allowed within 1.0 mile (line of sight) of bald eagle and peregrine falcon nests.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Fish, Wildlife, and Rare Plants, number 55 (p. 1-17). The objective is to prevent reduced reproductive success and adverse habitat loss.

Application Methodology

This stipulation applies to active bald eagle and peregrine falcon nests if nests are established on the Little Missouri National Grassland.

Waivers

This stipulation may be waived if the authorized officer determines conditions have changed and all nests within the leasehold or within the stipulated distance from the leasehold are known to have been unoccupied during each of the previous seven years.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to prevent reduced reproductive success and adverse habitat loss.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area include nests or nest site(s) known to have been unoccupied during each of the previous seven years. The boundary of the stipulated area may also be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting the eagles and falcons.

Bald Eagle Winter Roosting Areas***No Surface Occupancy (NSO)*****Stipulation**

No surface occupancy or use is allowed within 1.0 mile (line of sight) of bald eagle winter roosting areas.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Fish, Wildlife, and Rare Plants, number 55 (p. 1-17). The objective is to prevent adverse impacts on wintering and migrating bald eagles.

Application Methodology

This stipulation applies to bald eagle winter roosting areas if winter roosts are established on the Little Missouri National Grassland.

Waivers

This stipulation may be waived if the authorized officer determines conditions have changed and winter roosting areas are no longer used within the leasehold or within the stipulated distance from the leasehold.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to prevent adverse impacts on wintering and migrating bald eagles.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include winter roosting areas. The boundary of the stipulated area may also be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting the eagles.

Prairie Falcon and Burrowing Owl Nests*No Surface Occupancy (NSO)***Stipulation**

No surface occupancy or use is allowed within 0.25 mile (line of sight) of prairie falcon and burrowing owl nests.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Fish, Wildlife, and Rare Plants, number 55 (p. 1-17). The objective is to prevent reduced reproductive success and adverse habitat loss.

Application Methodology

This stipulation applies to active prairie falcon and burrowing owl nests.

Waivers

This stipulation may be waived if the authorized officer determines conditions have changed and all nests within the leasehold or within the stipulated distance from the leasehold are known to have been unoccupied during each of the previous 7 years.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to prevent reduced reproductive success and adverse habitat loss.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area include nests or nest site(s) known to have been unoccupied during each of the previous 7 years. The boundary of the stipulated area may also be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting these raptors.

Golden Eagle, Merlin, and Ferruginous Hawk Nests

No Surface Occupancy (NSO)

Stipulation

No surface occupancy or use is allowed within 0.5 mile (line of sight) of golden eagle, merlin, and ferruginous hawk nests.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Fish, Wildlife, and Rare Plants, number 55, (p.1-17). The objective is to prevent reduced reproductive success and adverse habitat loss.

Application Methodology

This stipulation applies to active golden eagle, merlin, and ferruginous hawk nests.

Waivers

This stipulation may be waived if the authorized officer determines conditions have changed and all nests within the leasehold or within the stipulated distance from the leasehold are known to have been unoccupied during each of the previous seven years.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to prevent reduced reproductive success and adverse habitat loss.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area include nests or nest site(s) known to have been unoccupied during each of the previous seven years. The boundary of the stipulated area may also be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting these raptors.

Sage-Grouse Priority Habitat – new

No Surface Occupancy (NSO)

Stipulation

Surface occupancy and surface disturbing activities will be prohibited within Sage-Grouse Priority Habitat Management Areas.

Objective (Justification)

To protect sage-grouse habitat in consideration of mixed ownership patterns from habitat fragmentation and loss and sage-grouse populations from disturbance inside Priority Habitat Management Areas while providing for energy development needs.

Application Methodology

This stipulation applies to 35,052 acres of National Forest System Lands where mineral rights are federally owned, and the surface acres are identified as Sage-Grouse Priority Habitat.

Waivers

This stipulation may be waived over the entire lease if, in coordination with the North Dakota Game and Fish Department, it is determined that the area holds limited value for sage-grouse life cycle needs compared to neighboring lands (e.g., state, private, etc.), as determined by the state wildlife agency, and doing so would lead to greater benefits to sage-grouse on those lands. Any changes to the stipulation will be made in accordance with the land and resource management plan and/or the regulatory provisions for such changes.

Exceptions

The authorized officer may grant an exception if an environmental review determines that the action, as proposed or conditioned, would not impair the function or utility of the site for the current or subsequent seasonal habitat, life-history, or behavioral needs of sage-grouse and doing so would limit impacts to higher quality habitat or habitat connectivity on neighboring lands (e.g., state, private, etc.). The FS can and does grant exceptions if the FS, in coordination with the ND Game and Fish Department, determines that granting an exception would not adversely impact the population being protected and would improve management opportunities in areas of higher habitat value on neighboring lands.

Modifications

The authorized officer may modify the area subject to the stipulation or the NSO criteria if, in consultation with North Dakota Game and Fish, an environmental review finds that a portion of the NSO area is nonessential, or it is identified through scientific research or monitoring that the existing criteria are inadequate (i.e., resulting in impacts to higher value habitat on other lands) or overly protective for maintaining the function or utility of the site for the seasonal habitat, life-history, or behavioral needs of the sage-grouse (e.g., reproductive display, daytime loafing/staging activities, nesting, etc.) **or** doing so would provide for more effective sage-grouse habitat management and conservation at the landscape scale.

Sharp-tailed Grouse Display Grounds***No Surface Occupancy (NSO)*****Stipulation**

No surface occupancy or use is allowed within 0.25 mile (line of sight) of a sharp-tailed grouse display grounds.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction Fish, Wildlife, and Rare Plants, number 13 (p. 1-14). The objective is to prevent abandonment of display grounds, reduced reproductive success, and adverse habitat loss.

Application Methodology

This stipulation applies to active sharp-tailed grouse display grounds. The 0.25-mile radius extends outward from the center of a display ground.

Waivers

This stipulation may be waived if the authorized officer determines conditions have changed and all display grounds within the leasehold or within the stipulated distance of the leasehold have not been used during the last two breeding seasons.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to prevent abandonment of display grounds, reduced reproductive success, and adverse habitat loss.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include any display grounds that have been used during the last two breeding seasons. The boundary of the stipulated area may also be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting sharp-tailed grouse or the display grounds.

*Timing Limitation (TL)***Stipulation**

Surface use is prohibited from March 1 through June 15 within 1 mile (line of sight) of a sharp-tailed grouse display ground.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Fish, Wildlife, and Rare Plants, number 15 (p. 1-14). The objective is to prevent abandonment of display grounds and reduced reproductive success.

Application Methodology

This stipulation applies to active sharp-tailed grouse display grounds. The 1-mile radius extends outward from the center of a display ground. This stipulation applies to drilling, completion, testing, and new construction projects, and does not apply to operation and maintenance of production facilities.

Waivers

This stipulation may be waived if the authorized officer determines conditions have changed and all display grounds within the leasehold or within the stipulated distance from the leasehold have not been used during the past two breeding seasons.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to prevent abandonment of display grounds and reduced reproductive success. An exception may be granted if the display ground has not been used by May 1 of the current year.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include display grounds that have been used during the last two breeding seasons.

Black-Footed Ferret Reintroduction Habitat MA 3.63

No Surface Occupancy (NSO)

Stipulation

No surface occupancy or use is allowed within the roadless portion of MA 3.63 (the southwest corner of the management area).

Objective (Justification)

Refer to Land and Resource Management Plan, Management Area Direction MA 3.63, Black-footed Ferret Reintroduction Habitat, Standards and Guidelines, Minerals and Energy Resources, number 12 (p. 3-28). The objective is to maintain those characteristics, which retain eligibility for roadless consideration and maintain the undeveloped character of the land.

Application Methodology

Use this stipulation in the southwest portion of MA 3.63 for the area west of road 849, (see the management area map, crosshatched area).

Waivers

No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception would be unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification would be unlikely.

Controlled Surface Use (CSU)

Stipulations

Operations in prairie dog colonies within the roaded portion of MA 3.63 that are known or thought to be occupied by black-footed ferrets are subject to the following constraints:

- Limit oil and gas development to no more than one location per 160 acres aliquot parts of a section.
- Access for routine maintenance of oil and gas facilities in prairie dog colonies is limited to daylight hours. This does not apply to emergency repairs.
- If it is necessary to place a new road in a prairie dog colony, align the road to minimize habitat loss.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Fish, Wildlife and Rare Plants, numbers 25, 26 and 27 (p. 1-15), and Management Area Direction, MA 3.63, Black-footed Ferret Reintroduction Habitat, Standards and Guidelines, Minerals and Energy Resources, numbers 4 (p. 3-27). The objective is to protect against activities that will adversely impact black-footed ferret reintroduction objectives.

Application Methodology

Use this stipulation in MA 3.63, black-footed ferret reintroduction habitat.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver is unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception is unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification is unlikely.

Black-Footed Ferret Reintroduction Habitat Outside of MA 3.63*Timing Limitation (TL)***Stipulation**

Surface use is prohibited from March 1 through August 31 within 0.125 mile (line of sight) of prairie dog colonies outside of MA 3.63 that are occupied or thought to be occupied by black-footed ferrets.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Fish, Wildlife, and Rare Plants, number 23 (p 1-15). The objective is to protect ferrets when breeding and rearing young.

Application Methodology

This stipulation applies to prairie dog colonies occupied, or thought to be occupied, by black-footed ferrets. The spatial buffer extends out from the outer boundary of a prairie dog colony occupied by black-footed ferrets. This stipulation applies to drilling, completion, testing, and new construction projects, and does not apply to operation or maintenance of production facilities.

Waivers

The authorized officer may grant a waiver if ferret surveys, following protocol approved by the U.S. Fish, Wildlife, and Rare Plants Service, indicate a low probability that ferrets occur in prairie dog colonies located in the leasehold, or if the U.S. Fish and Wildlife Service determines that black-footed ferrets do not occur in the area. Currently, there are no prairie dog colonies occupied by black-footed ferrets that are outside MA 3.63. This stipulation will be applied if black-footed ferret populations expand outside MA 3.63.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to protect ferrets when breeding and rearing young. An exception may be granted if surveys indicate a low probability that ferrets occur in a prairie dog colony where drilling, completion, testing, or new construction is proposed.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that black-footed ferrets do not occur in portions of the area.

Controlled Surface Use**Stipulation**

Operations in prairie dog colonies outside of MA 3.63 that are known or thought to be occupied by black-footed ferrets are subject to the following constraints:

- Limit oil and gas development to no more than one location per 160 acres aliquot parts of a section.
- Access for routine maintenance of oil and gas facilities in prairie dog colonies is limited to daylight hours. This does not apply to emergency repairs.
- If it's necessary to place a new road in a prairie dog colony, align the road to minimize habitat loss.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Fish, Wildlife, and Rare Plants, numbers 25, 26 and 27 (p. 1-15), and Management Area Direction, MA 3.63, Black-footed Ferret Reintroduction Habitat, Standards and Guidelines, Minerals and Energy Resources, number 4 (p. 3-27). The objective is to protect against activities that could result in adverse impacts on black-footed ferrets or ferret recovery objectives.

Application Methodology

This stipulation applies to prairie dog colonies occupied by black-footed ferrets outside Management Area 3.63. Currently, there are no prairie dog colonies occupied by black-footed ferrets that are outside MA 3.63. This stipulation will be applied if black-footed ferret populations are found outside MA 3.63.

Waivers

The authorized officer may waive this stipulation if black-footed ferrets are released under an experimental non-essential population status; this stipulation may be waived for areas inside the experimental population area but outside Management Area 3.63.

Exceptions

No conditions for an exception are anticipated, and approval of an exception is unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification is unlikely.

Bighorn Sheep Lambing Areas***Timing Limitation (TL) - revised*****Stipulation**

Surface use is prohibited from April 1 through July 15 within 1 mile (line-of-sight) of bighorn sheep lambing areas.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Fish, Wildlife, and Rare Plants, number 12. The objective is to safeguard lamb survival and prevent bighorn sheep displacement from lambing areas.

Application Methodology

This stipulation applies to bighorn sheep lambing areas established outside of management area 3.51. This stipulation applies to any: construction, drilling, and completion operations over 24 hours, and does not apply to operation or maintenance of production facilities.

Waivers

This stipulation may be waived if the authorized officer determines conditions have changed and there are no lambing areas within the leasehold or within the stipulated distance from the leasehold.

Exceptions

The authorized officer may grant an exception to this stipulation if, in consultation with North Dakota Game and Fish, an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to safeguard lamb survival and prevent bighorn sheep displacement from lambing areas.

Modifications

The boundaries of the stipulated area may be modified if, in consultation with North Dakota Game and Fish, the authorized officer determines that bighorn sheep lambing areas do not occur within one mile of the stipulated area.

Controlled Surface Use (CSU)**Stipulation**

New developments, including new facilities, roads, and concentrations of humans, within one mile of bighorn sheep lambing areas may be moved or modified to be out of view of the lambing areas.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Fish, Wildlife, and Rare Plants, number 12 (p. 1-14). The objective is to safeguard lamb survival and prevent displacement of bighorn sheep from lambing areas by moving facilities to avoid disturbance.

Application Methodology

This stipulation applies to areas outside Management Area 3.51 and 3.51A but within one mile of lambing areas located in Management Area 3.51 and 3.51A. This stipulation applies to drilling, completion, testing, and new construction projects, not to operation or maintenance of production facilities.

Waivers

This stipulation may be waived if the authorized officer determines conditions have changed and there are no lambing areas in the leasehold or within the stipulated distance from the leasehold.

Exceptions

The authorized officer may grant an exception to this stipulation if, in consultation with North Dakota Game and Fish, an environmental analysis determines that the impacts of the plan submitted by the

operator are acceptable or can be adequately mitigated to safeguard lamb survival and prevent displacement of bighorn sheep from lambing areas.

Modifications

The boundaries of this area may be modified if, in consultation with North Dakota Game and Fish, the authorized officer determines that portions of the area are not within the stipulated distance from bighorn sheep lambing areas.

Bighorn Sheep Habitat within MA 3.51***No Surface Occupancy (NSO)*****Stipulation**

No surface occupancy or use is allowed within MA 3.51.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Management Area Direction, MA 3.51 Bighorn Sheep Habitat, Standards and Guidelines, Minerals and Energy Resources number 1 (p. 3-23). The objective is to achieve optimum habitat suitability for bighorn sheep.

Application Methodology

This stipulation applies to MA 3.51.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver is unlikely.

Exceptions

The authorized officer may grant an exception to this stipulation if, in consultation with North Dakota Game and Fish, an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to achieve optimum habitat suitability for bighorn sheep.

Modifications

The boundaries of the stipulated area may be modified if, in consultation with North Dakota Game and Fish, the authorized officer determines that portions of the area do not include bighorn sheep populations or habitat.

Bighorn Sheep Habitat within MA 3.51A***Not Currently Authorized for Leasing (NCA)***

Leasing of the Federal mineral estate will not occur in MA 3.51A until after there is development of a well on an adjacent spacing unit or an access road built across the area to access non-Federal rights. Once there is development on adjacent non-Federal minerals or an adjacent Federal spacing unit, leasing may be allowed using the following CSU and TL stipulations.

Application Methodology

This stipulation applies to MA 3.51A with nearby non-Federal mineral ownership.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Management Area Direction, MA 3.51A Bighorn Sheep Habitat with Non-Federal Mineral Ownership, Standards and Guidelines, Minerals and Energy Resources number 1 (p. 3-25). The objective is to maintain high habitat suitability levels and desired levels of solitude.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver is unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception is unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification is unlikely.

Controlled Surface Use (CSU)**Stipulation**

Operations may be modified or moved to minimize additional impacts on bighorn sheep habitat.

Application Methodology

This stipulation applies to MA 3.51A with nearby non-Federal mineral ownership.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Management Area Direction, MA 3.51A Bighorn Sheep Habitat with Non-Federal Mineral Ownership, Standards and Guidelines, Minerals and Energy Resources number 1 (p. 3-25). The objective is to maintain high habitat suitability levels and desired levels of solitude.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver is unlikely.

Exceptions

The authorized officer may grant an exception to this stipulation if, in consultation with North Dakota Game and Fish, an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to maintain high habitat suitability levels and desired levels of solitude.

Modifications

The boundaries of the stipulated area may be modified if, in consultation with North Dakota Game and Fish, the authorized officer determines that portions of the area do not include bighorn sheep populations or habitat.

*Timing Limitation (TL)***Stipulations**

- Drilling, completion, testing, and new construction activity will be confined to June 15-October 15 to accommodate breeding, winter range, and lambing seasons for bighorn sheep.
- Limit on-lease activities (operation and maintenance of facilities) to the period from 10 a.m. to 4 p.m. except in emergency situations.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Management, MA 3.51A, Bighorn Sheep Habitat with Non-Federal Ownership, Standards and Guidelines, Minerals and Energy Resources, number 1 (p. 3-25). The objectives are to provide quality forage, cover, escape terrain, and solitude for bighorn sheep.

Application Methodology

Use this stipulation in MA.3.51A, Bighorn Sheep habitat with interspersed non-Federal minerals. This stipulation applies to drilling, completion, and testing of wells and new construction projects, and does not apply to operation or maintenance of production facilities.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver is unlikely.

Exceptions

The authorized officer may grant an exception to this stipulation, in consultation with North Dakota Game and Fish, if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to provide quality forage, cover, escape terrain, and solitude for bighorn sheep.

Modifications

The boundaries of the stipulated area may be modified if, in consultation with North Dakota Game and Fish, the authorized officer determines that portions of the area do not include bighorn sheep populations or habitat.

Bighorn Sheep Habitat within MA 3.51B*Controlled Surface Use (CSU)***Stipulations**

- Operations may be modified or moved to minimize additional impacts on bighorn sheep habitat.
- Future roads to non-producing wells on private minerals under National Forest System lands would be obliterated and the disturbed areas reclaimed.
- Road construction and associated lease activities will be located to minimize loss of bighorn sheep habitat.
- Well locations will be located to avoid lambing areas, steep slopes (escape terrain) and known travel corridors.

- Whenever possible, access roads will be gated to prevent unnecessary human activity.

Application Methodology

Use this stipulation in MA.3.51B, Bighorn Sheep habitat with interspersed non-Federal minerals. This stipulation applies to drilling, completion, and testing of wells and new construction projects, and does not apply to operation or maintenance of production facilities.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver is unlikely.

Exceptions

The authorized officer may grant an exception to this stipulation if, in consultation with North Dakota Game and Fish, an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to prevent significant adverse impact to bighorn sheep populations or habitat.

Modifications

The boundaries of the stipulated area may be modified if, in consultation with North Dakota Game and Fish, the authorized officer determines that portions of the area do not include bighorn sheep populations or habitat.

Pronghorn Antelope Winter Range*Timing Limitation (TL)***Stipulation**

Surface use is prohibited January 1 through March 31 on identified pronghorn antelope winter range.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Direction Grassland-wide Direction, Fish, Wildlife, and Rare Plants, number 11 (p. 1-13). The objective is to maintain the health, vigor, and physical condition of wintering pronghorn by minimizing disturbance on winter range during the critical period.

Application Methodology

This stipulation applies to the mapped pronghorn winter range in effect at the time of leasing and again at the time of proposed surface disturbing activities. This stipulation applies to drilling, completion, testing, and new construction projects, and does not apply to operation or maintenance of production facilities.

Waivers

The authorized officer may waive this stipulation if it is determined that the entire leasehold no longer contains critical winter range for pronghorn.

Exceptions

The authorized officer may grant an exception to this stipulation if, in consultation with North Dakota Game and Fish, an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to maintain the health, vigor, and physical condition of wintering pronghorn antelope.

Modifications

The boundaries of the stipulated area may be modified if, in consultation with North Dakota Game and Fish, the authorized officer determines that portions of the area do not include pronghorn antelope wintering areas.

Swift Fox Dens*Timing Limitation (TL)***Stipulation**

Surface use is prohibited from March 1 through August 31 within 0.25 mile (line of sight) of swift fox dens.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Fish, Wildlife, and Rare Plants, number 52 (p 1-17). The objective is to prevent den abandonment and reduced reproductive success of swift fox.

Application Methodology

This stipulation applies to swift fox den sites. This stipulation applies to drilling, completion, testing, and new construction projects, and does not apply to operation or maintenance of production facilities.

Waivers

This stipulation may be waived if the authorized officer determines conditions have changed and there are no dens within the leasehold or within the stipulated distance from the leasehold.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to prevent den abandonment and reduced reproductive success of swift fox.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include swift fox dens.

Botanical Resources**Rare Plant Populations – new***No Surface Occupancy (NSO)***Stipulations**

No surface occupancy allowed within 200 feet of mapped populations for Dakota buckwheat (*Eriogonum visheri*), nodding buckwheat (*E. cernuum*), and sand lily (*Leucocrinum montanum*).

Objective (Justification)

To provide protection for these very rare sensitive plant species with narrow ranges. These species have very few populations on the Little Missouri National Grassland, so impacts from oil and gas surface

activities could reduce the capacity to maintain the species within the planning area. The objective is to ensure that the species do not become locally extirpated and to prevent a trend toward Federal listing under the Endangered Species Act.

Application Methodology

This stipulation applies to known, mapped populations of these species.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception would be unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification would be unlikely.

Botanical Special Interest Areas***No Surface Occupancy (NSO)*****Stipulation**

No surface occupancy or use is allowed within the boundaries of Aspen Stand, The Bog, Grand River Sand Dunes, Black Butte, Black Cottonwood, Riparian Pools, and Roundtop Butte Special Interest Areas.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Management Area Direction, MA 2.1, Special Interest Areas, Standards and Guidelines, Minerals and Energy Resources, number 1. The objective is to protect the botanical resources.

Application Methodology

Use this stipulation in Management Area 2.1: Aspen Stand, The Bog, Grand River Sand Dunes, Black Butte, Black Cottonwood, Riparian Pools, and Roundtop Butte Special Interest Areas.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception would be unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification would be unlikely.

Recreation

Developed Recreation Sites

No Surface Occupancy (NSO)

Stipulation

No surface occupancy or use is allowed within developed recreation sites.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Recreation, Developed Recreation Sites, number 11 (p. 1-21). The objective is to maintain the recreation opportunities and settings within developed recreation sites.

Application Methodology

Use this stipulation in developed recreation sites: Burning Coal Vein, Buffalo Gap, Sather Lake, CCC, and Summit Campgrounds, Whitetail Picnic Area, and the six Maah Daah Hey Trail overnight camps (Wannagan, Roosevelt, Elkhorn, Magpie, Beicegel, and Bennett).

Waivers

This stipulation may be waived if the authorized officer determines conditions have changed and the entire leasehold no longer contains developed recreation sites.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to maintain the recreation opportunities and settings within developed recreation sites.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include developed recreation sites.

Timing Limitation (TL)

Stipulation

Surface use is prohibited within 0.25 miles of the established boundaries of Burning Coal Vein, Buffalo Gap, Sather Lake, CCC, and Summit Campgrounds, Whitetail Picnic Area, and the six Maah Daah Hey Trail overnight camps (Wannagan, Roosevelt, Elkhorn, Magpie, Beicegel, and Bennett) from May 1 through December 1.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Minerals and Energy Resources, number 13 (p. 1-12). To maintain the recreation opportunities and settings within the area surrounding campgrounds, picnic areas, and recreation trail overnights.

Application Methodology

The 0.25-mile distance will be from the established boundary. This stipulation does not apply to operation and maintenance of production facilities.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to maintain the recreation opportunities and settings within developed recreation sites.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area are not within 0.25 of the established recreational facility.

Backcountry Recreation Non-motorized*No Surface Occupancy (NSO)***Stipulation**

No surface occupancy or use is allowed within boundaries of backcountry non-motorized management areas.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Management Area Direction, MA 1.31 Backcountry Recreation Non-motorized, Standards and Guidelines, Minerals and Energy Resources, number 2 (p. 3-6). The objective is to retain recreation opportunities in a natural-appearing landscape.

Application Methodology

Use this stipulation in MA 1.31

Waivers

No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception would be unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification would be unlikely.

Roadless**Inventoried Roadless Areas – new***No Surface Occupancy (NSO)***Stipulation**

No surface occupancy or use is allowed within those portions of inventoried roadless areas outside of a corridor within 0.25 miles of existing maintenance level 3, 4, and 5 roads, as described in the roadless areas CSU stipulation.

Objective (Justification)

For justification refer to the Forest Service Roadless Area Conservation Final Rule, published on January 12, 2001. The objective is to prevent landscape fragmentation and preserve roadless area values and characteristics.

Application Methodology

Use this stipulation for all inventoried roadless areas. As per case law and the 2001 Roadless Rule, this stipulation applies to well pads and roads, but does not apply to pipelines and transmission lines, deemed “linear construction features.”

Waivers

No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception would be unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification would be unlikely.

Controlled Surface Use**Stipulation**

Controlled surface use is allowed by constructing a well pad within 0.25 miles from the centerline of all existing maintenance level 3, 4, and 5 roads at the time of the proposal. The near edge of the pad must be directly adjacent to the existing road right-of-way. Additionally, the long axis of the well pad must be situated parallel to the road.

Objective (Justification)

For justification refer to the Forest Service Roadless Area Conservation Final Rule, published on January 12, 2001. The objective is to prevent landscape fragmentation and preserve roadless area values and characteristics while providing for energy development needs. Existing maintenance level 3, 4, and 5 roads available for use will be determined and defined at the time of the proposal.

Application Methodology

Use this stipulation for all inventoried roadless areas. For the purposes of this stipulation the “time of the proposal” means at the time of lease issuance. All maintenance level three, four and five roads will be identified at that time and shown on a map attached to the lease. The buffer represents the maximum extent of disturbance allowed. When feasible, disturbance should be less than the buffer width.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception would be unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification would be unlikely.

Heritage Resources

National Register Eligible Heritage Sites

No Surface Occupancy (NSO)

Stipulation

No surface occupancy or use is allowed within National Register eligible heritage sites.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Heritage Resources, number 6 (p. 1-25). The objective is to protect National Register eligible heritage sites and immediate environment of the site.

Application Methodology

Use this stipulation for National Register eligible heritage sites greater than 200 meters in radius.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception would be unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification would be unlikely.

Heritage Special Interest Areas

No Surface Occupancy (NSO)

Stipulation

No surface occupancy or use is allowed within the boundaries of Battle of the Badlands, Custer Trail/Davis Creek, and Square Buttes Special Interest Areas.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Management Area Direction, MA 2.1, Special Interest Areas, Standards and Guidelines, Minerals and Energy Resources, number 1 (p. 3-8). The objective is to protect the heritage resources.

Application Methodology

Use this stipulation in Management Area 2.1 SIAs, Battle of the Badlands, Custer Trail/Davis Creek, and Square Buttes Special Interest Areas.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception would be unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification would be unlikely.

Scenery Management**Little Missouri River Corridor***No Surface Occupancy (NSO)***Stipulation**

No surface occupancy or use is allowed within 0.25 miles on each side of the Little Missouri River.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Management Area Direction, MA 4.22, River and Travel Corridors, Standards and Guidelines, Minerals and Energy Resources, number 2 (p. 3-36). The objective is to maintain the recreation opportunities and settings within the river corridor.

Application Methodology

Use this stipulation in the Little Missouri River Corridor, within 0.25 miles on each side of the river. This stipulation applies to well locations and production facilities. It does not apply to pipelines, powerlines or roads, which are allowed but must be subordinate to the landscape.

Waivers

This stipulation may be waived if the authorized officer determines conditions have changed and the entire leasehold no longer contains Little Missouri River corridor.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to maintain the natural appearance of the river corridor.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include Little Missouri River corridor.

High Scenic Integrity Objective Areas*Controlled Surface Use (CSU)***Stipulation**

Surface occupancy and use is subject to operational constraints to maintain the landscape character intact. Deviations may be present but must repeat the form, line, color, texture, and pattern common to the landscape character so completely and to such scale that they are not evident.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Scenery Management, number 1 (p. 1-22). The objective is to maintain the Scenic Integrity Objective (SIO) for areas identified as high.

Application Methodology

Use this stipulation on areas identified as high on the adopted SIO map. Operational constraints may include utilizing topographic/vegetative screening, matching color tones of facilities with surrounding topographic features, orienting the well pad/facilities, redesigning production facilities to such scale that they may not be evident, or placing facilities outside the high SIO area.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver is unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception is unlikely.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include high SIO areas.

Moderate Scenic Integrity Objective Areas***Controlled Surface Use (CSU)*****Stipulation**

Surface occupancy and use is subject to operational constraints to maintain a landscape character that is no more than slightly altered. Noticeable deviations must remain visually subordinate to the landscape character being viewed.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Grassland-wide Direction, Scenery Management, number 1 (p. 1-22). The objective is to maintain the scenic integrity objective (SIO) for areas identified as moderate.

Application Methodology

Use this stipulation on areas identified as moderate on the adopted SIO map. Operational constraints may include utilizing vegetative/vegetative screening, matching color tones of facilities with surrounding topographic features, orienting the well pad/facilities, redesigning production facilities to such scale that they are visually subordinate to the landscape, or placing facilities outside the moderate SIO area.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver is unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception is unlikely.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include moderate SIO areas.

Paleontological and Geological Resources**White Buttes, Burning Coal Vein/Columnar Juniper, and Ice Caves Special Interest Areas***No Surface Occupancy (NSO)***Stipulation**

No surface occupancy or use is allowed within the boundaries of White Buttes, Burning Coal Vein/Columnar Juniper, and Ice Caves Special Interest Areas.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Management Area Direction, MA 2.1, Special Interest Areas, Standards and Guidelines, Minerals and Energy Resources, number 1 (p. 3-8). The objective is to protect geologic and biostratigraphic type sections, and immediate environment of the site, including inherent scientific, natural historic, interpretive, educational, and recreational values for the area potentially impacted.

Application Methodology

Use this stipulation in Management Area 2.1 SIAs, White Buttes, Burning Coal Vein/Columnar Juniper, and Ice Caves.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception would be unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification would be unlikely.

Bullion Creek Formation Type Section, Slope Formation Type Section, and the Cannonball/Slope Formation Outcrop Special Interest Areas*Controlled Surface Use (CSU)***Stipulation**

Operations may be moved or modified to preserve certain geologic type sections for future scientific research, education, and interpretation.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Management Area Direction, MA 2.1, Special Interest Areas, Standards and Guidelines, Minerals and Energy Resources, number 1 (p. 3-8). The

objective is to protect against activities will directly or indirectly modify or destroy geologic outcrops, in order to maintain them in a condition to allow geologic scientific research, education, and interpretation.

Application Methodology

Use this stipulation in MA 2.1 SIAs, Bullion Creek Formation Type Section, Slope Formation Type Section, and the Cannonball/Slope Formation Outcrop. All access and other development and production-related facilities will be allowed under the conditions described in the justification.

Waivers

No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions

No conditions for an exception are anticipated, and approval of an exception would be unlikely.

Modifications

No conditions for a modification are anticipated, and approval of a modification would be unlikely.

Research Natural Areas

Bear Den-Bur Oak, Cottonwood Creek Badlands, Little Missouri River, Mike's Creek, Ponderosa Pines, Limber Pine, and Two Top/Big Top RNAs

*No Surface Occupancy (NSO)***Stipulation**

No surface occupancy or use is allowed within the established boundaries of Bear Den-Bur Oak, Cottonwood Creek Badlands, Little Missouri River, Mike's Creek, Ponderosa Pines, Limber Pine, and Two Top/Big Top Research Natural Areas.

Objective (Justification)

For justification refer to the Land and Resource Management Plan Management Area Direction, MA 2.2, Research Natural Areas, Standards and Guidelines, Minerals and Energy Resources, number 2 (p. 3-14). The objective is to maintain natural conditions for research purposes and protect against activities, which directly or indirectly modify the natural ecological processes within the RNA.

Application Methodology

Use this stipulation in Management Area 2.2 RNA in the following areas: Bear Den-Bur Oak, Cottonwood Creek Badlands, Little Missouri River, Mike's Creek, Ponderosa Pines, Limber Pine, and Two Top/Big Top. All access and other development and production-related facilities will be prohibited.

Waivers

The authorized officer may grant a waiver if an area is found unsuitable as research natural area.

Exceptions

The authorized officer may grant an exception to this stipulation if an environmental analysis determines that the impacts of the plan submitted by the operator are acceptable or can be adequately mitigated to

maintain natural conditions for research purposes and prevent modification of the natural ecological processes within the RNA.

Modifications

The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area are unsuitable as a research natural area.

Lease Notices

Lease notices are attached to leases to transmit information at the time of lease issuance to assist the lessee in submitting acceptable plans of operation, or to assist in administration of leases.

Lease notices are attached to leases in the same manner as stipulations, however, there is an important distinction between lease notices and stipulations. Lease notices do not involve new restrictions or requirements. Any requirements contained in a lease notice must be fully supported in law, regulations, standard lease terms, or onshore oil and gas orders. Guidance in the use of lease notices is found in Bureau of Land Management Manual 3101, 43 CFR 3101.1-3, and 36 CFR 228.105(b).

Lease notices may be revised from time to time to reflect updates in laws, regulation, or other policy. These changes do not require a grasslands plan amendment or a revision of the leasing decision.

Forest Service Standard Lease Notice

FS Parcel No.

Serial No. _____

Notice for Lands of the National Forest System Under Jurisdiction of Department of Agriculture

The permittee/lessee must comply with all the rules and regulations of the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System when not inconsistent with the rights granted by the Secretary of Interior in the permit. The Secretary of Agriculture's rules and regulations must be complied with for (1) all use and occupancy of the National Forest System prior to approval of an exploration plan by the Secretary of the Interior, (2) uses of all existing improvements, such as forest development roads, within and outside the area permitted by the Secretary of the Interior, and (3) use and occupancy of the National Forest System not authorized by an exploration plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed to:

Insert Authorized Representative Name Here

Who is the authorized representative of the Secretary of Agriculture

Signature of Licensee/Permittee/Lessee

Floodplain and Wetlands

The lessee is hereby notified that this lease may contain land within a riparian ecosystem. All activities within this area may be highly restricted in order to comply with Executive Order 11988 - Floodplain

Management and Executive Order 11990 - Protection of Wetlands, in order to preserve and restore or enhance the natural and beneficial values served by floodplains and wetlands.

Riparian ecosystems will be managed by the Forest Service to protect from conflicting uses in order to provide healthy, self-perpetuating plant and water communities that will have optimum diversity and density of understory and overstory vegetation. Occupancy and use of lands within riparian ecosystems proposed in a proposed Surface Use Plan of Operations will be considered in an environmental analysis done to identify the mitigation measures necessary to protect the riparian area. Special measures such as road design, well pad size and location or directional drilling, may be made part of the permit authorizing the activity.

Threatened, Endangered, and Sensitive Plant or Animal Species

The lease area may contain threatened and endangered species or habitat necessary for the continued existence of threatened, proposed, candidate or endangered species which are protected by the 1973 Endangered Species Act, as amended (16 USC 1531 et seq.) and implementing regulations (50 CFR 402 et seq.). The lease area may also contain habitat or species, which may require protective measures to prevent them from being listed as threatened or endangered; or result in a loss of viability or biological diversity (36 CFR 219.19 or 219.26). A biological evaluation of the leased lands may be required prior to surface disturbance to determine if endangered, threatened, proposed, candidate or sensitive plant or animal species or their habitat are present and to identify needed mitigation measures. Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator shall:

1. Contact the Forest Service to determine if a biological evaluation is required. The Forest Service is responsible for ensuring that the leased land is examined through a biological evaluation, prior to undertaking any surface-disturbing activities, to determine effects upon any plant or animal species listed or proposed for listing as threatened, endangered, or a sensitive species.
2. The lessee or operator may choose to conduct the evaluation on the leased lands at their discretion and cost. This biological evaluation must be done by or under the supervision of a qualified biologist/botanist approved by the Forest Service. An acceptable report must be provided to the Forest Service identifying the anticipated effects of a proposed action on endangered, threatened, proposed, candidate or sensitive species. An acceptable biological evaluation is to be submitted to the Forest Service for review and approval no later than that time when an otherwise complete application for permit to drill or subsequent surface-disturbing operation is submitted.
3. Implement mitigation measures required by the Forest Service. Mitigation may include the relocation of proposed lease-related activities or other protective measures. The findings of the biological evaluation, analysis, and consultation may result in restrictions to the operator's plans or even disallow use and occupancy to comply with the 1973 Endangered Species Act (as amended), threatened and endangered species regulations, and Forest Service statutes and regulations.

If endangered, threatened, proposed, candidate or sensitive plant or animal species are discovered in the area after any required biological evaluation has concluded, an evaluation will be conducted to assess the effect of ongoing and proposed activities. Based on the conclusion drawn in the evaluation, additional restrictions or prohibitions may be imposed to protect the species or their habitats.

Cultural Resources

The Forest Service is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures, in accordance with the Archaeological

Resources Protection Act of 1979, the National Historic Preservation Act of 1966 (as amended), and the American Indian Religious Freedom Act of 1996. Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the Forest Service, shall:

1. Contact the Forest Service to determine if a site-specific cultural resource inventory is required. If a survey is required, then:
2. Engage the services of a cultural resource specialist acceptable to the Forest Service to conduct a cultural resource inventory of the area of proposed surface disturbance. The operator may elect to inventory an area larger than the area of proposed disturbance to cover possible site relocation, which may result from environmental or other considerations. An acceptable inventory report is to be submitted to the Forest Service for review and approval at the time a surface-disturbing plan of operation is submitted.
3. Implement mitigation measures required by the Forest Service and BLM to preserve or avoid destruction of cultural resource values. Mitigation may include relocation of proposed facilities, testing, salvage, and recordation or other protective measures. All costs of the inventory and mitigation will be borne by the lessee or operator, and all data and materials salvaged will remain under the jurisdiction of the U.S. Government as appropriate.

The lessee or operator shall immediately bring to the attention of the Forest Service and BLM any cultural resources or any other objects of scientific interest discovered as a result of surface operations under this lease and shall leave such discoveries intact until directed to proceed by Forest Service and BLM.

Paleontological Resources – revised

The Forest Service is responsible for assuring that the leased lands are examined to determine if paleontological resources are present and to specify mitigation measures, in accordance with the Organic Act, the National Forest Management Act of 1976, the Paleontological Resources Preservation Act, and regulations at 36 CFR 291.

The term ‘paleontological resource’ means any fossilized remains, traces, or imprints of organisms, preserved in or on the earth's crust, that are of paleontological interest and that provide information about the history of life on earth, with the exception of those defined as archeological resources under the Archaeological Resources Protection Act of 1979, or cultural items as defined in the Native American Graves Protection and Repatriation Act.

Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the Forest Service, shall:

1. Contact the Forest Service to determine if a site-specific paleontological inventory is required. The Forest Service is responsible for ensuring that the leased land is examined, prior to undertaking any surface-disturbing activities, to determine potential effects upon any paleontological resources.
2. The lessee or operator may, at their own discretion and cost, engage the services of a paleontological resource specialist acceptable to the Forest Service to conduct a paleontological resource inventory of the area of proposed surface disturbance. An acceptable inventory report is to be submitted to the Forest Service for review and approval at the time a surface-disturbing plan of operation is submitted.
3. Implement mitigation measures required by the Forest Service and Bureau of Land Management to preserve or avoid destruction of any paleontological resources. Mitigation may include relocation of proposed facilities, recovery (removal), and recordation, other protective measures, or a combination

of mitigation procedures. All costs of the mitigation, preparation, and curation will be borne by the lessee or operator, and all data, reports, and specimens salvaged will remain under the jurisdiction of the U.S. Government as appropriate.

4. The lessee or operator shall immediately bring to the attention of the Forest Service any paleontological resources discovered as a result of surface operation under this lease and shall leave such discoveries intact until directed to proceed by the Forest Service.

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at http://www.ascr.usda.gov/complaint_filing_cust.html and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: program.intake@usda.gov.

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