

Appendix H

Lease-specific Oil and Gas Notifications/Stipulations

Introduction

The following notifications and stipulations implement the standards and guidelines of the Wayne National Forest’s 2006 Land and Resource Management Plan (Forest Plan). These are in addition to the standard lease terms for oil and gas leases (BLM Form 3100-11). Not all of these notifications and stipulations are applied to every lease, rather, only those that are relevant based on site conditions. These notifications and stipulations are necessary to protect specific resource values on the lease area. They may be made less restrictive or modified for site-specific situations if such change is found to be in the public interest. These notifications and stipulations may be made less restrictive or modified only after a formal analysis has been completed and specifically approved in writing by a Forest Service line officer.

Notifications

Special Notification #1

Operations under this lease will be consistent with all the standards and guidelines found in the Wayne National Forest’s 2006 Land and Resource Management Plan and are hereby incorporated into this lease in its entirety. Forest Plan standards and guidelines may restrict location, timing, and methodology of oil and gas lease operations. Special surveys for protection of National Forest System land and resources will be required. A copy of the WNF’s 2006 Land and Resource Management Plan is available from the following website <http://www.fs.fed.us/r9/wayne/> or by writing to:

Forest Supervisor
Wayne National Forest
13700 US HWY 33
Nelsonville, OH 45764

Notification #1

Cultural Resources

The Forest Service is responsible for assuring the area to be disturbed is examined for cultural resources prior to allowing surface disturbing activities on lands covered by this lease. Important cultural resource values may be present on portions of a lease. Surface disturbing activities must avoid these areas unless the authorized officer agrees to the mitigation measures.

The lessee/operators may, at their discretion and cost, conduct the examination on the lands to be disturbed. This examination must be done by or under the supervision of a qualified resource specialist approved by the Forest Service. An acceptable report must be provided to the Forest Service identifying the anticipated effects of the proposed action on cultural resource values.

If items of substantial archaeological or paleontological values are discovered during operations, or a known deposit of such items is disturbed, the lessee (or operator) will cease work in the affected area. The lessee (or operator) will then notify the Forest Service and will not resume excavation until the Forest Supervisor gives written approval.

Notification #2

Floodplains

Any activities proposed in, or likely to affect a floodplain will be subject to:

- Analysis and identification of alternate sites
- Public notification and comment period
- Provisions of any other Federal, State or local laws and regulations as required under presidential Executive Order 11988, Protection of Floodplains.

Notification #3

Protection of Federally Listed Endangered and Threatened, and Regional Sensitive Species and Their Habitats

The Forest Service is responsible for assuring that the area to be disturbed is examined prior to allowing any surface disturbing activities on lands covered by this lease. The examination is to determine effects upon any plant or animal species listed, or proposed for listing, as Federal endangered or threatened, regional sensitive, and their habitats. If the findings of this examination determine that the operation(s) may have a detrimental effect on a species covered by the Federal Endangered Species Act, the operator's plans may be denied or restrictions added. The presence of regional sensitive species may also require some restrictions of the operation(s).

The Forest Service has the responsibility to conduct the required examination. In cases where the Forest Service time frames cannot meet the needs of the lessee/operator, the lessee/operator may, at his discretion and cost, conduct the examination on the lands to be disturbed. This examination must be done by or under the supervision of a qualified resource specialist approved by the Forest Service. An acceptable report must be provided to the Forest Service identifying the anticipated effects of the proposed action on Federal endangered or threatened species, regional sensitive species, or their habitats.

Notification #4

Compliance with Public Laws and Federal Regulations

Operators are required to comply with all public laws and Federal regulations that apply to National Forest System lands and the Wayne National Forest's 2006 Land and Resource Management Plan.

Notification #5

Steep Slopes and/or Unstable Soils

The area of this lease contains a considerable amount of land with steep slopes and/or unstable soils. Accordingly, the opportunity to locate access roads, drilling sites, pipelines, storage tanks and other improvements may be extremely limited.

Management Areas Requiring Special Stipulations

Stipulation #1

No Surface Occupancy – Future Old Forest

No surface occupancy allowed on the entire lease or on designated areas of the lease (see lease map) for the protection of the Future Old Forest resources.

On National Forest System land in Future Old Forest Management Areas, the Forest Service will issue leases for Federal oil and gas only with a No Surface Occupancy (NSO) stipulation. In the case of Federal leases issued pursuant to the Comprehensive National Energy Policy Act of 1992, the Forest Service will recommend to the Bureau of Land Management that operations be allowed to continue provided that all activities comply with Forest guidance. When the existing well (or wells) is depleted, all facilities must be removed and the site rehabilitated to Forest Service standards. No new wells will be allowed, nor will existing wells be allowed to be drilled to deeper formations. The NSO stipulation does not apply to reserved or outstanding mineral rights.

Stipulation #2

No Surface Occupancy – Research Natural Areas

No surface occupancy within designated areas of the lease (see lease map) for the protection of natural processes or research, historical, or educational values.

On National Forest System land in Research Natural Area Management Areas, the Forest Service will issue leases for Federal oil and gas only with a No Surface Occupancy (NSO) stipulation. In the case of Federal leases issued pursuant to the Comprehensive National Energy Policy Act of 1992, the Forest Service will recommend to the Bureau of Land Management that operations be allowed to continue provided that all activities comply with Forest guidance. When the existing well (or wells) is depleted, all facilities must be removed and the site rehabilitated to Forest Service standards. No new wells will be allowed, nor will existing wells be allowed to be drilled to deeper formations. The NSO stipulation does not apply to reserved or outstanding mineral rights.

Stipulation #3

No Surface Occupancy – Special Areas

No surface occupancy within designated areas of the lease (see lease map) to protect natural processes or research, historical or educational values.

On National Forest System land in Special Interest Management Areas, the Forest Service will issue Federal oil and gas leases only with a No Surface Occupancy (NSO) stipulation. In the case of Federal leases issued pursuant to the Comprehensive National Energy Policy Act of 1992, the Forest Service will recommend to Bureau of Land Management that operations be allowed to continue provided that all activities comply with Forest guidance. When the existing well (or wells) is depleted, all facilities must be removed and the site rehabilitated to Forest Service standards. No new wells will be allowed, nor will existing wells be allowed to be drilled to deeper formations. The NSO stipulation does not apply to reserved or outstanding mineral rights.

Stipulation #4

No Surface Occupancy – Candidate Areas

No surface occupancy within designated areas of the lease (see lease map) for the protection of natural processes or research, historical or educational values.

On National Forest System lands in Candidate Research Natural Management Areas, the Forest Service will only issue Federal oil and gas leases that have a No Surface Occupancy (NSO) stipulation. In the case of Federal leases issued pursuant to the Comprehensive National Energy Policy Act of 1992, the Forest Service will recommend to Bureau of Land Management that operations be allowed to continue provided that all activities comply with Forest guidance. When the existing well (or wells) is depleted, all facilities must be removed and the site rehabilitated to Forest Service standards. No new wells will be allowed, nor will existing wells be allowed to be drilled to deeper formations. The NSO stipulation does not apply to reserved or outstanding mineral rights.

Stipulation #5

No Surface Occupancy - Administrative Sites, and Developed Recreation Areas, Trails and Associated Trailheads

No surface occupancy within designated areas of the lease (see lease map) to protect special management units such as developed recreation areas, trails and associated trailheads, water supply facilities, administrative site, etc.

On National Forest System land within administrative sites, developed recreation areas, trails and associated trailheads, the Forest Service will issue leases for Federal oil and gas only with a No Surface Occupancy (NSO) stipulation. The NSO designation will include a buffer zone, which will be determined in accordance with the Implementation Guide for Scenery Management. In the case of Federal leases issued pursuant to the Comprehensive National Energy Policy Act of 1992, the Forest Service will recommend to the Bureau of Land Management that operations be allowed to continue provided that all activities comply with Forest guidance. When the existing well (or wells) is depleted, all facilities must be removed and the site rehabilitated to Forest Service standards. No new wells will be allowed, nor will existing wells be allowed to be drilled to deeper formations. The NSO stipulation does not apply to reserved or outstanding mineral rights.

Stipulation #6

No Surface Occupancy – Timbre Ridge Lake

No surface occupancy within designated areas of the lease (see lease map) for the protection of the Timbre Ridge Lake Management Area.

On National Forest System land in the Timbre Ridge Lake Management Area, the Forest Service will issue Federal oil and gas leases only with a No Surface Occupancy (NSO) stipulation. In the case of Federal leases issued pursuant to the Comprehensive National Energy Policy Act of 1992, the Forest Service will recommend to Bureau of Land Management that operations be allowed to continue provided that all activities comply with Forest guidance. When the existing well (or wells) is depleted, all facilities must be removed and the site rehabilitated to Forest Service standards. No new wells will be allowed, nor will existing wells be allowed to be drilled to deeper formations. The NSO stipulation does not apply to reserved or outstanding mineral rights.

Resources Requiring Special Stipulations

Stipulation #7

No Surface Occupancy – Cultural Resource Areas of Known Significance

No surface occupancy is allowed within archaeological or historical sites of known significance (see lease map). At the time of any new proposed lease developments, a Forest Service archeologist shall determine the need for any setbacks or restrictions for the protection of objects of historic or scientific interest.

Stipulation #8

No Surface Occupancy – Slopes in Excess of 55 Percent

No surface occupancy is allowed on slopes in excess of 55 percent (see lease map) to protect soil and water from erosion and mass failure hazards because of steep slopes.

Stipulation #9

No Surface Occupancy – Areas of Mass Soil Instability

No surface occupancy is allowed for the exploration and development of energy minerals on areas with mass soil instability, as defined by the USDA County Soil Surveys (see lease map).

Stipulation #10

No Surface Occupancy – Hibernacula

No surface occupancy within ¼ mile of all known Indiana bat hibernacula.

Stipulation #11

Controlled Surface Use – Areas of Land with a Scenic Integrity Objective of ‘High’ or ‘Moderate’

At the time of any new proposed lease developments, the responsible line officer shall determine the need for any visual quality mitigation. Some examples of mitigation may include special design and reclamation measures, transplanting trees and shrubs, fertilization, mulching, special erosion control structures, irrigation, site recontouring to match the original land contour, low profile equipment and painting to minimize contrast. Surface occupancy may also be limited or denied in sensitive areas, such as unique geologic features and rock formations, visually prominent areas such as designated trails and developed recreation sites.

Stipulation #12

Controlled Surface Use – Known Locations of Federally Listed Species

No cutting of snags (trees with less than 10% live canopy), shagbark or shellbark hickories, or trees that are hollow and/or have major splits or broken tops, except during the bat hibernation season (September 15 through April 15). If such trees are a safety hazard, they may be cut anytime they pose an imminent threat to human safety, but if cut in the nonhibernation season the Forest Service biologist must be notified in advance. This stipulation applies only to trees over six inches in diameter.

Protect all supercanopy trees or other identified congregation roost trees for bald eagles along major river corridors and lakes. Protect known nests and roosts as described in the Bald Eagle Recovery Plan, or as directed by the U.S. Fish and Wildlife Service.

Prior to any surface disturbing activities a Forest Service biologist will conduct an assessment for potential American burying beetle habitat and occurrence. Occupancy restrictions will be determined at the time of the evaluation.

Stipulation #13

Controlled Surface Use – Known Locations of Regional Forester Sensitive Species.

Controlled surface use may include setbacks or restrictions from portions of the lease to ensure protection of habitat for regional sensitive species. At the time of any new proposed lease developments, the responsible line officer shall determine the need for any setbacks or restrictions, or the need for timing-related stipulation in accordance with the aquatic and terrestrial wildlife and botanical resources standards and guidelines.

The leaseholder and Forest Service inspector shall work together to identify locations for development and production facilities in order to protect the structural integrity of large old trees found on a portion of the tract.

Stipulation #14

Controlled Surface Use – Managed Wildlife Openings

At the time of any new proposed lease developments, the responsible line officer shall determine the extent of the surface use restrictions necessary to maintain habitat integrity for plant and animal species dependent on such habitats.

Stipulation #15**Controlled Surface Use – Riparian Areas**

At the time of any new proposed lease developments, the responsible line officer shall determine the appropriate surface use restrictions necessary to maintain the structural and ecological integrity of riparian areas, and aquatic and riparian-dependent species viability.

Stipulation #16**Controlled Surface Use – Portions of Floodplains Outside Riparian Areas**

Oil and gas activities may be allowed within that portion of a floodplain outside riparian areas. Mineral activities will be evaluated on a case-by-case basis, and appropriate mitigation measures will be applied. The leaseholder and Forest Service inspector shall work together to identify locations for roads, pipelines, well pads and production facilities.

Stipulation #17**Controlled Surface Use - Slopes Between 35 and 55 Percent**

Oil and gas activities will be allowed on slopes from 35 to 55 percent on a case-by-case basis with appropriate mitigation. New road construction and maintenance shall be planned to disturb the least amount of ground. The leaseholder and Forest Service inspector shall work together to identify locations for roads, pipelines, well pads, and production facilities.