

APPENDIX D

OIL AND GAS LEASING SUPPLEMENTAL STIPULATIONS

I. SUMMARY OF LEASE STIPULATIONS

As required by 36 CFR 228.102 (c), the leasing analysis includes maps of lands which show the lands available for leasing and the appropriate supplementary stipulations, if any, that are required. These maps are available at the Forest, and Sulphur, Redfeather, and Pawnee District Offices. The appropriate lease terms include:

A. Standard Lease Terms (SLT) - All leases contain these requirements that may be generally sufficient to mitigate the impacts of development. Under SLTs, the development may be delayed for up to 60 days or the activities moved 200 meters to minimize resource impacts without infringing on the lessee's lease rights (43 CFR 3101.1-2). If SLTs are not sufficient, supplementary stipulations may be used. SLTs are illustrated in BLM Form 3100-11, Offer to Lease and Lease for Oil and Gas, and FS Form 2820-13, Notice for Lands of the National Forest System Under Jurisdiction of Department of Agriculture.

Section 6 of the lease form (BLM Form 3100-11, Offer to Lease and Lease for Oil and Gas) discusses management of surface resources. These terms and conditions apply to all leases.

Sec. 6. Conduct of Operations - Lessee shall conduct operations in a manner that minimizes adverse impacts to the land, air and water, to cultural, biological, visual, and other resources, and to other land uses or users. Lessee shall take reasonable measures deemed necessary by lessor to accomplish the intent of this section. To the extent consistent with lease rights granted, such measures may include, but are not limited to, modification to siting or design of facilities, timing of operations, and specification of interim and final reclamation measures. Lessor reserves the right to continue existing uses and to authorize future uses upon or in the leased lands, including the approval of easements or rights-of-way. Such uses shall be conditioned so as to prevent unnecessary or unreasonable interference with rights of lessee.

Prior to disturbing the surface of the lands, lessee shall contact lessor to be apprised of procedures to be followed and modifications or reclamation measures that may be necessary. Areas to be disturbed may require inventories or special studies to determine the extent to impacts to other resources. Lessee may be required to complete minor inventories or short term special studies under guidelines provided by lessor. If in the conduct of operations, threatened or endangered species, objects of historical or scientific interest, or substantial unanticipated environmental effects are observed, lessee shall immediately contact lessor. Lessee shall cease any operations that would result in the destruction of such species or objects.

The “lease rights granted,” as used in this section have also been partially defined in 43 CFR 3101.1-2, shown below.

A lessee shall have the right to use so much of the leased lands as is necessary to explore for, drill for, mine, extract, remove and dispose of all the leased resource in a leasehold subject to: Stipulations attached to the lease; restrictions deriving from specific, nondiscretionary statutes; and such reasonable measures as may be required by the Authorized Officer to minimize adverse impacts to other resource values, land uses or users not addressed in the lease stipulations at the time operations are proposed. To the extent consistent with lease rights granted, such reasonable measures may include, but are not limited to, modification to siting or design of facilities, timing of operations, and specification of interim and final reclamation measures. At a minimum, measures shall be deemed consistent with lease rights granted provided that they do not: require relocation of proposed operations by more than 200 meters; require that operations be sited off the leasehold; or prohibit new surface-disturbing operations for a period in excess of 60 days in any lease year.

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Serial No:

**NOTICE FOR LANDS OF THE NATIONAL FOREST SYSTEM
UNDER JURISDICTION OF THE 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 Code of Federal Regulations governing the use and management of the National Forest System (NFS) 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 NFS 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 Interior, and (3) use and occupancy of the NFS not authorized by an exploration plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed.

To: **District Ranger**

at:

Telephone:

who is the authorized representative of the Secretary of Agriculture.

NOTICE

CULTURAL AND PALEONTOLOGICAL 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. 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 FS, shall:

1. Contact the FS to determine if a site specific cultural resource inventory is required.
2. Engage the services of a cultural resource specialist acceptable to the FS 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 FS for review and approval at the time a surface disturbing plan of operations is submitted.
3. Implement mitigation measures required by the FS 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 operator, and all data and materials salvaged will remain under the jurisdiction of the US Government as appropriate.

The lessee or operator shall immediately bring to the attention of the FS and BLM any cultural or paleontological 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 FS and BLM.

ENDANGERED OR THREATENED SPECIES: The FS is responsible for assuring that the leased land is examined prior to undertaking any surface-disturbing activities to determine effects upon any plant or animal species listed or proposed for listing as endangered or threatened, or their habitats. The findings of this examination may result in some restrictions to the operator's plans or even disallow use and occupancy that would be in violation of the Endangered Species Act of 1973 by detrimentally affecting endangered or threatened species or their habitats.

The lessee/operator may, unless notified by the FS that the examination is not necessary, conduct the examination on the leased lands at his discretion and cost. This examination must be done by or under the supervision of a qualified resource specialist approved by the FS. An acceptable report must be provided to the FS identifying the anticipated effects of a proposed action on endangered or threatened species or their habitats.

B. Supplemental Stipulations

- 1. No Surface Occupancy (NSO)** - Occupancy of the surface of part or all of the lease is prohibited for development. Directional or horizontal drilling must be used to reach the mineral resource. This stipulation is the most restrictive and could be used to protect developed recreation sites or areas with high erosion hazard soils. Note that if the area to be protected is less than 40 acres or 400 meters across, NSO is not needed as the 200 meter relocation in SLTs is sufficient.

- 2. Controlled Surface Use (CSU)** - Development is authorized on the lease, but activities must be controlled due to resource concerns. Constraints modify the SLTs. Examples could be additional requirements to protect visual resources or mitigate effects on 40-60 percent slopes.

- 3. Timing Limitation (TL)** - Development is not permitted during a period less than year long. Examples could be prohibiting development during elk calving season or use of winter range. Note that this stipulation is not needed for less than 60 day delays as the SLTs are sufficient.

- 4. Lease Notice (LN)** - LNs are attached to leases to assist the lessee in preparation of acceptable Surface Use Plans of Operation, or to assist in administration of the lease. LNs do not involve new restrictions.

A summary of stipulations, and the specific rationale and conditions for waivers, modifications, and exceptions for each stipulation are discussed below. The interested person may view detailed stipulation maps at the Regional, Forest Supervisor's, Sulphur, Redfeather, and Pawnee Grassland offices. These maps are used in the verification analysis when a specific lease proposal is being analyzed. Some locations, such as raptor resting sites, are confidential to protect the area, and are not shown on public maps.

Table D.1 Required Lease Stipulations

<u>Stipulation</u>	<u>Resource Protected</u>
Standard Lease Terms	Air Cultural and paleontological resources less than 400 meters across or less than 40 acres. Riparian/wetland areas less than 400 meters across or less than 40 acres. Special uses less than 400 meters across or less than 40 acres. Threatened and endangered species.
No Surface Occupancy (NSO)	Existing and historical use raptor nest sites on the Grassland, and Sulphur and Redfeather Districts Developed recreation sites (Management Area (MA) 8.21). Visual corridors on Scenic Byways and other scenic routes (MA 4.2). Nonmotorized backcountry recreation areas (MA 1.3). Motorized backcountry recreation areas (MA 3.3). Arapaho National Recreation Area (MA 3.1). Fraser Experimental Forest (MA 5.31).

	Ski Areas (MA 8.22). Prairie Woodlands (MA 3.61). Slopes over 60%, slopes over 35% with a high mass movement potential.+ Research natural areas (MA 2.2). Special interest areas(MA 3.1).
Controlled Surface Use (CSU)	Slopes 35-60%, slopes less than 35% with a high mass movement potential, high erosive potential soils.+ High geologic hazard and erosion potential areas.
Timing Limitation (TL)	Mountain plover nesting habitat, 4/10 - 7/10. Existing and historical raptor nest sites on the Sulphur and Redfeather Districts, 4/1 - 7/31, and Pawnee Grassland 3/1-6/30. Deer and elk winter habitat, 11/15- 4/15, 12/1 - 3/31. * Elk calving and deer and pronghorn fawning areas, 5/1-6/30.
Lease Notices (LN)**	Missile cables and sites avoidance on the Grassland. Black-footed ferret survey requirements if prairie dog towns are impacted. Paleontological resources management on the Grassland.

+ Large scale maps identifying NSO and CSU areas due to soils are available at the Supervisors Office and Sulphur and Redfeather Districts.

* Different dates are used for the TL on the Sulphur and Redfeather Districts.

** Other Lease Notices may be used as needed.

II. SPECIFIC STIPULATIONS

The purpose and wording of the stipulations are shown on the following pages.

TIMING LIMITATION STIPULATION

No drilling, other construction, or well plugging and abandonment activities are allowed during April 10 - July 10. This stipulation does not apply to operation and maintenance of production facilities.

Purpose: The mountain plover is a bird species that nests on the short grass prairie of the Pawnee National Grassland. The species is listed by the US Fish and Wildlife Service as a Category species, meaning the FWS has substantial information to support listing the species as threatened or endangered. The stipulation will protect the species during nesting from the effects of drilling and other construction activities.

Location: The stipulation applies to all of the nesting habitat on the Grassland. See the Alternative Oil and Gas Stipulation maps.

Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies.

TIMING LIMITATION STIPULATION

No drilling or other construction activities are allowed during November 15 - April 15 on the Sulphur District, and December 1 - March 31 on the Redfeather District. This stipulation does not apply to operation and maintenance of production facilities. Access roads will be closed to the public.

Purpose: Provide undisturbed winter habitat for deer and elk.

Location: Areas on the Sulphur and Redfeather Districts. See the Alternative Oil and Gas Stipulation maps.

Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies.

An exception may be considered if warmer weather in the spring allows the species to move to higher elevation ranges earlier than expected.

TIMING LIMITATION STIPULATION

No drilling or other construction activities are allowed during May 1 - June 30. This stipulation does not apply to operation and maintenance of production facilities. Access roads will be closed to the public.

Purpose: Provide undisturbed areas for elk calving and deer and pronghorn fawning. Disturbance during these critical periods can lead to infant mortality.

Location: See the Alternative Oil and Gas Stipulation maps.

Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies.

TIMING LIMITATION STIPULATION

No drilling or other construction activities are allowed within 500 meters of active raptor nests during March 1 - June 30 on the Pawnee National Grassland and April 1 - July 31 on the Sulphur and Redfeather Districts. This stipulation does not apply to operation and maintenance of production facilities. Access roads will be closed to the public.

Purpose: Protect raptors not listed for NSO (Kestrels, owls, Coopers hawk, etc.) during nesting, hatching, rearing, and fledgling.

Location: Nest areas on the Redfeather and Sulphur Districts, and the Pawnee National Grassland. The nest locations are confidential to protect the sites, but will appear on authorized leases where applicable. See the Alternative Oil and Gas Stipulation maps.

Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies.

A waiver may be granted if the tree or habitat containing the nest is no longer usable. An exception may be granted if the nest is not used when the development is proposed, or if the young birds fledge early, or if topography precludes the need for the 500 meter buffer. An active nest is defined as having been used within the last five years, and the stipulation may be waived or an exception made if the nest is inactive.

CONTROLLED SURFACE USE STIPULATION

Surface occupancy or use is subject to the following special operating constraints:

Where the following conditions exist:

1. slopes are greater than or equal to 35 percent; but less than 60 percent, on stable soils;
2. slopes are less than or equal to 35 percent with:
 - a. high mass movement potential, or
 - b. high erosion potential, or
 - c. silty and clayey soils occur over a shale formation, or
 - d. montmorillonitic clays with a high shrink-swell potential, or
 - e. high geologic hazards.
3. Soils less than 20 inches deep with high erosion potential on slopes greater than than 35 percent, but less than 60 percent.

The industry must submit mitigation and reclamation plans addressing these conditions that are acceptable to the Forest Service before occupancy is authorized.

Purpose: These conditions are known to exist and affect surface disturbing activities. When a development activity is proposed, the industry and needed Forest Service specialists will meet on site to determine satisfactory mitigation and reclamation plans for the Application for Permit to Drill. If satisfactory plans are not submitted to the Forest Service, the development activity must be relocated. Additional bonding may be required.

This stipulation provides protection to areas with high erosion and mass movement potentials that may be unstable, and to activities occurring in these areas. These mitigation prevent impacts to soil and water quality from accelerated soil erosion, impairment of soil productivity, and areas

with a low potential for reclamation.

Location: See the Alternative Oil and Gas Stipulation maps for the Redfeather and Sulphur District. More detailed mapping will be added to the Forest Plan by amendment.

Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies.

An exception may be considered when the conditions listed do not occur in the development area proposed in the Application for Permit to Drill.

NO SURFACE OCCUPANCY

No surface occupancy or use is allowed within 500 meters of active nests of bald eagles, golden eagles, ferruginous hawks, Swainson's hawks, and red-tailed hawks, on the Pawnee National Grassland and Sulphur and Redfeather District. Distances greater than 500 meters may be required for sensitive birds.

Purpose: Bald eagles, and golden eagles are protected species, and ferruginous hawks have been listed by the Forest Service as a sensitive species. The other species are not listed, but their nest sites may be used by the ferruginous hawk. This stipulation protects the site for nesting, hatching, brooding, and fledgling.

Location: Nest sites on the Pawnee National Grassland, and Sulphur and Redfeather Districts. The nest locations are confidential to protect the sites, but will appear as stipulations on proposed leases where applicable.

Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies.

A waiver or exception may be considered when the nest site becomes unusable (for example, the tree holding the nest falls over and is not usable) or if topography precludes the need for the 500 meter buffer. An active nest is defined as having been used within the last five years, and the stipulation may be waived or an exception made if the nest is inactive.

NO SURFACE OCCUPANCY

No surface occupancy or use is allowed within 200 meter of the top of cliffs and 400 meters from the bottom of cliffs containing active nests of prairie falcons on the Pawnee National Grassland.

Purpose: Cliff habitat on the Grassland is limited, and this stipulation protects the site during

nesting, hatching, brooding, and fledgling, and maintains viable populations.

Location: Nest sites on the Pawnee National Grassland. The nest locations are confidential to protect the sites, but will appear as stipulations on proposed leases where applicable.

Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies.

A waiver or exception may be considered when the nest site becomes unusable. An active nest is defined as having been used within the last five years, and the stipulation may be waived or an exception made if the nest is inactive.

NO SURFACE OCCUPANCY

No surface occupancy or use is allowed within 200 meters of active nests of northern goshawks.

Purpose: Northern goshawks are on the Forest Service Region 2 Sensitive Species list (meaning population viability is a concern). This stipulation protects the site during nesting, hatching, brooding, and fledgling.

Location: Nest sites on the Sulphur and Redfeather Districts. The nest locations are confidential to protect the sites, but will appear as stipulations on proposed leases where applicable.

Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies.

A waiver or exception may be considered when the nest site becomes unusable (for example, the tree holding the nest falls over and is not usable) or if topography precludes the need for the 200 meter buffer. An active nest is defined as having been used within the last five years, and the stipulation may be waived or an exception made if the nest is inactive.

NO SURFACE OCCUPANCY

No surface occupancy or use is allowed within:

1. Developed Recreation Sites (Management Area 8.21, where not withdrawn from leasing).
2. The Arapaho National Recreation Area (Management Area 3.1).
3. Ski Areas (Management Area 8.22)
4. Fraser Experimental Forest (Management Area 5.31)

See the Alternative Oil and Gas Stipulation maps.

Purpose: Capital investment facilities occur on these lands, and the National Recreation Area is a

destination area for water related recreation activities. The stipulation protects those facilities and the settings provided.

Location: See the Alternative Oil and Gas Stipulation maps.

No waivers, exceptions, or modifications will be considered unless the facilities are closed and no longer used for the existing opportunity. If that occurs, waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies.

NO SURFACE OCCUPANCY

No surface occupancy or use is allowed within:

1. Research Natural Areas (Management Area 2.2)
2. Special Interest Areas (Management Area 3.1)

Purpose: The stipulation protects the values for which the areas were designated on the Pawnee National Grassland and Sulphur and Redfeather Districts.

Location: See the Alternative Oil and Gas Stipulation maps.

No waivers, exceptions, or modifications will be considered unless the values and settings provided by the management area allocation are no longer present. If that occurs, waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies.

NO SURFACE OCCUPANCY

No surface occupancy or use is allowed within visual corridors on a scenic and historic byway and other scenic routes, Management Area 4.2.

Purpose: The stipulation protects the scenic values and settings for which the areas were designated, including routes and Scenic and Historic Byways on the Sulphur District and the Pawnee National Grassland. The scenic resource is an important part of the visitor's experience on these popular routes, and the detrimental effects caused by oil and gas development in the foreground are not compatible with the management area emphasis.

Location: See the Alternative Oil and Gas Stipulation maps.

Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies. An exception may be considered if topography allows facilities that maintain scenic values and the

mitigation is acceptable to the Forest Service.

NO SURFACE OCCUPANCY

No surface occupancy or use is allowed within:

1. Nonmotorized backcountry recreation areas (Management Area 1.3).
2. Motorized backcountry recreation areas (Management Area 3.3).

Purpose: The stipulation protects the primitive values and settings for recreation opportunities where users seek solitude and a natural environment. The detrimental effects caused by oil and gas development are not compatible with the management area emphasis.

Location: See the Alternative Oil and Gas Stipulation maps for the Sulphur District.

Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies.

NO SURFACE OCCUPANCY

No surface occupancy or use is allowed on slopes:

1. greater than 60 percent, or
2. greater than 35 percent with a high mass movement potential.

Purpose: The stipulation protects soil and water resources by prohibiting development on steep slopes. Potential erosion and difficult reclamation are eliminated, and soil productivity and stability, and water quality are maintained.

Location: See the Alternative Oil and Gas Stipulation maps for the Sulphur and Redfeather Districts.

Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and other applicable regulations and policies.

NO SURFACE OCCUPANCY

No surface occupancy or use is allowed within prairie woodlands (Management Area 3.61) on the Pawnee National Grassland.

Purpose: The stipulation protects the unique biodiversity, and wildlife and plant habitats provided by prairie woodlands and escarpments on the Grassland. This habitat is only 1,339 acres, or .7% of the total Grassland, but provides important diversity in the shortgrass prairie.

The detrimental effects caused by oil and gas development are not compatible with the management area emphasis.

Location: See the Alternative Oil and Gas Stipulation maps.

Waivers, exceptions, or modifications will be considered in accordance with the direction provided in the Forest Plan, 36 CFR 228.104, and applicable regulations and policies.