

## **B. APPENDIX B - LEASE STIPULATIONS AND STANDARD LEASE TERMS (BLM FORM 3100-11)**

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## **B. LEASE STIPULATIONS AND STANDARD LEASE TERMS**

### **B.1 INTRODUCTION**

The following information pertaining to lease stipulations is taken from the booklet, "Uniform Format For Oil And Gas Lease Stipulations," prepared by the Rocky Mountain Regional Coordinating Committee in March 1989. These guidelines were developed by the Bureau of Land Management (BLM) and the Forest Service.

Stipulations are conditions, promises, or demands that are to be made part of a lease when the environmental and planning record demonstrates the necessity for the stipulations. Stipulations, as such, are neither "standard" nor "special," but rather a necessary modification of the terms of the lease. The stipulation forms, given at the end of this appendix, provide for standardized structure, wording, and usage. In order to accommodate the variety of resources encountered on federal lands, these stipulations are categorized as to how the stipulation modifies the lease rights, not by the resource(s) to be protected. What, why, and how this mitigation/protection is to be accomplished is determined by the land management agency through land management planning and National Environmental Policy Act (NEPA) analysis.

### **B.2 IMPLEMENTATION**

If upon weighing the relative resource values, uses, and/or users it is determined that conflict with oil and gas operations exist that cannot be adequately managed under the BLM Standard Lease Terms (SLTs), a lease stipulation is necessary. Land use/management plans serve as the primary vehicle for determining the necessity for lease stipulations (BLM Manual 1624). Documentation of the necessity for a stipulation is disclosed in planning documents or through site-specific analysis. Land management plans and/or NEPA documents also establish the guidelines by which future waivers, exceptions, or modifications may be granted. Substantial modification or waiver subsequent to lease issuance is subject to public review for at least a 30-day period in accordance with Section 5102.f of the Federal Onshore Oil and Gas Leasing Reform Act of 1987.

Stipulations may be necessary if the authority to control the activity on the lease does not already exist under laws, regulations, or orders. It is important to recognize that the authorized officer has limited authority to modify the site location and design of facilities, control the rate of development and timing of activities, as well as require other mitigation under Sections 2 and 6 of the SLTs (BLM Form 3100-11) and 43 CFR 3101.1-2. Specifically, the SLTs allow the authorized officer to move a well or other facility site up to 200 meters or delay operations for up to 60 days in a year.

The necessity for individual lease stipulations is documented in the lease-file record with reference to the appropriate land management plan or other leasing analysis document. The necessity for exceptions, waivers, or modifications also will be documented in the lease-file record through reference to the appropriate plan or other analysis. The uniform format for stipulations should be implemented when amendments or revisions of land management plans are prepared or by other appropriate means.

The uniform format for stipulations is designed to accommodate most existing stipulations by providing space to record the local mitigation objectives. The stipulations have been developed for the categories of:

- No Surface Occupancy (NSO)
- Timing or seasonal Limitations (TL)
- Conditional Surface Use (CSU)

This guidance also includes the use of lease notices. Also, there is provision for special or unique stipulations, such as those required by prior agreements between agencies when the standardized forms are not appropriate. In all cases, use of the uniform forms for stipulations require identification of specific resource values to be protected and description of the specific geographical area covered. Stipulations attached to noncompetitive leases require the applicant's acceptance and signature.

### **B.3 STANDARD LEASE TERMS**

The Standard Lease Terms are contained in Form 3100-11, Offer to Lease and Lease for Oil and Gas, United States Department of the Interior, BLM, June 1988 or later addition. The Standard Lease Terms provide the lessee the right to use the leased land as needed to explore for, drill for, extract, remove, and dispose of oil and gas deposits located under the leased lands. Operations must be conducted in a manner that minimizes adverse impacts to the land, air, water, cultural, biological, and visual elements of the environment, as well as other land uses or users. Federal environmental protection laws such as the Clean Water Act, Endangered Species Act, and Historic Preservation Act, will be applied to all lands and operations and are included in the standard lease terms. If threatened or endangered species; objects of historic, cultural, or scientific value; or substantial unanticipated environmental effects are encountered during construction, all work affecting the resource will stop and the land management agency will be contacted.

Standard Lease Terms provide for reasonable measures to minimize adverse impacts to surface resources. These include, but are not limited to, modifications to the siting or design of facilities, timing of operations, and specifications of interim and final reclamation measures. Standard Lease Terms may *not* require the lessee to relocate drilling rigs or supporting facilities by more than 200 meters, require that operations be sited off the leasehold, or prohibit new surface-disturbing operations for more than 60 days each year (43 CFR part 3101.I-2).

All leases on National Forest System (NFS) lands contain the "Stipulation for Lands of the National Forest System Under Jurisdiction of Department of Agriculture," requiring the lessee to comply with the rules and regulations of the Department of Agriculture. All leases are subject to regulations and formal orders of the Secretaries of the Interior and Agriculture in effect at the time of issuance.

## **B.4 DEFINITIONS**

### **B.4.1 Conditions of Approval (COA)**

Conditions or provisions (requirements) under which an Application for a Permit to Drill or a Sundry Notice is approved.

### **B.4.2 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. CSU is used for operating guidance, not as a substitute for the NSO or timing stipulations.

### **B.4.3 Exception**

Case-by-case exemption from a lease stipulation. The stipulation continues to apply to all other sites within the leasehold to which the restrictive criteria apply.

### **B.4.4 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. Lease notices attached to leases should not be confused with Notices to Lessees (NTL). (See 43 CFR 3160.0-5.)

### **B.4.5 Modification**

Fundamental change to the provisions of a lease stipulation, either temporarily or for the term of the lease. Therefore, 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 apply.

### **B.4.6 No Surface Occupancy (NSO)**

Use or occupancy of the land surface for fluid mineral exploration or development is prohibited to protect identified resource values. The NSO stipulation includes stipulations that may have been worded as “No Surface Use/Occupancy,” “No Surface Disturbance,” “Conditional NSO,” and “Surface Disturbance or Surface Occupancy Restriction (by location).”

### **B.4.7 Notice to Lessees (NTL)**

The NTL is a written notice issued by the BLM authorized officer. NTLs implement regulations and operating orders, and serve as instructions on specific item(s) of importance within a state, district, or area.

### **B.4.8 Stipulation**

A provision that modifies standard lease rights and is attached to and made a part of the lease.

#### **B.4.9 Timing Limitation (Seasonal restriction)**

Prohibits surface use during specified time periods to protect identified resource values. This stipulation 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 in sufficient.

#### **B.4.10 Waiver**

Permanent exemption from a lease stipulation. The stipulation no longer applies anywhere within the leasehold.

### **B.5 STIPULATION GUIDANCE**

#### **B.5.1 No Surface Occupancy Stipulation Guidance**

The No Surface Occupancy (NSO) stipulation is intended for use only when other stipulations are determined insufficient to adequately protect the public interest. The land management plan/NEPA document prepared for leasing must show that less restrictive stipulations were considered and determined by the authorized officer to be insufficient, i.e. show why the NSO stipulation is needed. The planning/NEPA record must also show that consideration was given to a no-lease alternative when applying an NSO stipulation. An NSO stipulation is not needed if the desired protection would not require relocation of proposed operations by more than 200 meters (43 CFR 3101.1-2).

The legal subdivision, distance, location, or geographic feature, and resource value of concern must be identified in the stipulation and be tied to a land management plan and/or NEPA document.

Land description may be stated as:

- The "Entire Lease"
- Distance from resources and facilities such as rivers, trails, campgrounds, etc.
- Legal description
- Geographic feature such as a 100-year floodplain
- Municipal watershed, percent of slope, etc.
- Special areas with identified boundaries--area of critical environmental concern, wild and scenic river, etc.
- Other description that specifies the boundaries of the lands affected.

The estimated percent of the total lease area affected by the restriction must be given if no legal or geographic description of the location of the restriction is given. In other cases the estimated percent is optional (see Example B-1).

Land management plans and/or NEPA documents should identify the specific conditions for providing waivers, exceptions, or modifications to lease stipulations. Waivers, exceptions, or modifications must be supported by appropriate environmental analysis and documentation, and are

subject to the same test used to initially justify the imposition of this stipulation. Language may be added to the NSO stipulation form to provide the lessee with information or circumstances under which waivers, exceptions, or modifications would be considered. A waiver, exception, or modification may be approved if the record shows that circumstances or relative resource values have changed or that the lessee can demonstrate that operations can be conducted without causing unacceptable impacts, and that less restrictive stipulations will protect the public interest. Waivers, exceptions, or modifications can only be granted by the authorized officer. If the waiver, exception, or modification is inconsistent with the land management planning document, that document must be amended or the change disallowed.

If the authorized officer determines, prior to lease issuance, that a stipulation involves an issue of major concern, modification or waiver of the stipulation will be subject to public review (43 CFR 3101.1-4). The land management plan also may identify other cases when a public review is required for a waiver, exception, or modification. In such cases, wording such as the following should be added to the stipulation form to inform the lessee of the required public review: "A 30-day public notice period is required prior to modification or waiver of this stipulation."

**EXAMPLE B-1**

Serial Number \_\_\_\_\_

**NO SURFACE OCCUPANCY STIPULATION**

No surface occupancy or use is allowed on lands described below (legal subdivision or other description).

- a. T2N, R10E SLM  
Section 26, NE1/4 SW1/4
- b. T2N, R14E  
Section 30: W1/2

For the purpose of:

- a. Avoidance of steep slopes exceeding 40 percent to avoid mass slope-failure and erosion (Sioux Oil and Gas Leasing Analysis / EIS).
- b. Protection of riparian area as discussed in Forest Plan (page \_\_) and EIS (page \_\_).

Any changes to this stipulation will be made in accordance with the land management plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manuals 1624 and 3101 or Forest Service Manuals 1950 and 2820.)

Form #/Date

## **B.5.2 Controlled Surface Use Stipulation Guidance**

The Controlled Surface Use (CSU) stipulation is intended to be used when fluid mineral occupancy and use are generally allowed on all or portions of the lease area year-round, but because of special values or resource concerns, lease activities must be strictly controlled. The CSU stipulation is used to identify constraints on surface use or operations that may otherwise exceed the mitigation provided by Section 6 of the standard lease terms and the regulations and operating orders. The CSU stipulation is less restrictive than the NSO (No Surface Occupancy) or Timing Limitation stipulations, which prohibit all occupancy and use on all or portions of a lease for all or portions of a year. The CSU stipulation should not be used in lieu of an NSO or Timing Limitation stipulation. The use of this stipulation should be limited to areas where restrictions or controls are necessary for specific types of activities rather than all activity.

The stipulation should explicitly describe the activity that is to be restricted or limited or the operation constraints required, and must identify the applicable area and the reason for the requirement. The record must show that less restrictive stipulations were considered and determined to be insufficient. The legal subdivision, distance, location, or geographic feature, and resource value of concern must be identified in the stipulation and be tied to a land management plan and/or NEPA document (see Example B-2).

Land management plans and/or NEPA documents should identify the specific conditions providing waivers, exceptions, or modifications to lease stipulations. Waivers, exceptions, or modifications of this stipulation must be supported with appropriate environmental analysis and documentation, and will be subject to the same test used to initially justify the imposition of this stipulation. Language may be added to the stipulation form to provide the lessee with information or circumstances under which a waiver, exception, or modification would be considered. A waiver, exception, or modification may be approved if the record shows that circumstances or relative resource value have changed or that the lessee can demonstrate that operations can be conducted without causing unacceptable impact, and that less restrictive stipulations would protect the public interest. Waivers, exceptions, or modifications can only be granted by the authorized officer. If the waiver, exception, or modification is inconsistent with the land management planning document, that document must be amended as necessary or the change disallowed.

If the authorized officer determines, prior to lease issuance, that a stipulation involves an issue of major concern, modification or waiver of the stipulation would be subject to public review (e.g., 43 CFR 3101.1-4). The land management plan also may identify other cases when a public review is required for waiver, exception, or modification. In such cases, wording such as the following should be added to the stipulation form to inform the lessee of the required public review: "A 30-day public notice period is required prior to modification or waiver of this stipulation."

**EXAMPLE B-2**

Serial Number \_\_\_\_\_

**CONTROLLED SURFACE USE STIPULATION**

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

a. Any operations within this lease must be designed or located to enable the visual quality objective of partial retention to be met within one year of commencing operations.

On the lands described below:

a. The entire lease.

For the purpose of:

a. To meet visual quality objectives.

Any changes to this stipulation will be made in accordance with the land management plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manuals 1624 and 3101, Forest Service Oil and Gas Regulations, 36 CFR, Sec. 228.104.)

Form #/Date

### **B.5.3 Special Administration Stipulation Guidance**

There is no required or suggested uniform format for special administration stipulations. They are usually provided by another agency or organization. However, other agencies are to be encouraged to use the uniform stipulation format.

Special Administration stipulations are used in situations where the three uniform stipulation forms or lease notices do not adequately address the concern. A Special Administration stipulation should be used only when special external conditions, such as pre-existing agreements with other agencies, require use of a one-of-a-kind stipulation that is not used in any other area or situation. The resource use or value, location, and specific restrictions must be clearly identified. In addition, the external agency, agreement, or pre-existing use that dictates the special restrictions must be identified. The stipulation should state if and under what circumstances a waiver, exception, or modification may be allowed.

Examples of Special Administration stipulations are contained in the document, "Uniform Format For Oil And Gas Lease Stipulations," available through the Forest Service or BLM.

### **B.5.4 Lease Notice Guidance**

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 either in a law, regulation, standard lease term, or an onshore oil and gas order. A lease notice is not signed by the lessee. Guidance in the use of lease notices is found in BLM Manual 3101 and 43 CFR 3101.1-3.

A lease notice should contain the following elements:

- the resource/use/value
- the lands affected, if applicable
- the reason(s)
- the effect on lease operations or what may be required
- a reference to the lease term, regulation, law, or order from which enforcement authority is derived.

If a situation or condition is known to exist that could affect lease operations, there should be full disclosure at the time of lease issuance via a lease notice. If a lessee may be prevented from extracting oil and gas through a prohibition mandated by a specific non-discretionary statute, such as the Endangered Species Act, then a stipulation may be used even though a lease notice would be sufficient. It is at the discretion of the authorized officer whether a situation is sufficiently sensitive to warrant the use of a lease stipulation. Example B-3 illustrates a lease notice.

**EXAMPLE B-3**

Serial Number \_\_\_\_\_

**LEASE NOTICE**

This lease was issued based on limited information regarding the water resources that may be affected by oil and gas operations. No activities can be approved that would violate the "Clean Water Amendments Act of 1972" as amended and the associated federal and state regulations. In order to assure compliance with the applicable laws and regulations regarding the protection and non-degradation of water quality, the lessee may be required to collect flow and quality baseline information for any surface and subsurface waters that could be adversely affected, prior to approval of proposed operations. The lessee will be required to establish a monitoring program capable of identifying and measuring any affects to water flow and quality that may occur as a result of operations.

Requirements for baseline data collection and water monitoring will be determined on a site-specific basis.

Form#/Date

## **B.6 CUSTER NATIONAL FOREST LEASE NOTICES AND STIPULATIONS FOR ALTERNATIVE 3 (PREFERRED ALTERNATIVE)**

The following section lists the Alternative 3 stipulations that would be applied (*by resource, by stipulation type, by site-specific resource area*), and a short explanation of the reason, or objective, for the stipulation. This is mandated by section 102(c)(1)(ii) of the oil and gas regulations found in 36 CFR Part 228 Subpart E - Oil and Gas Resources, which states: "As part of the analysis, the authorized Forest Officer shall identify on maps those areas that will be open to development but subject to constraints that will require the use of lease stipulations such as those prohibiting surface use on areas larger than 40 acres or such other standards as may be developed in the plan for stipulation use (with discussion as to why the constraints are necessary and justifiable)." Section 102(e)(2) also reiterates this direction in its discussion of leasing decisions for specific lands. Forest Service policy states (FSM 2822.42) that the stipulations should be "held to a minimum consistent with those purposes," meaning that the least restrictive stipulation should be applied which protects the target resource.

This section also discusses guidelines by which future waivers, exceptions, or modifications may be granted. When a request to modify, waive, or grant an exception to lease stipulations is received, the authorized Forest officer shall review the request as provided for in 36 CFR 228.104. As part of the review, the authorized Forest officer will ensure compliance with the NEPA and other applicable laws, and may authorize the BLM to modify, waive, or grant an exception to a stipulation if:

- 1) the action would be consistent with applicable federal laws;
- 2) the action would be consistent with the current forest land and resource management plan;
- 3) the management objectives that led the Forest Service to require the inclusion of the stipulation in the lease can be met without restricting operations in the manner provided for by the stipulation given the change in the present condition of the surface resource involved, or given the nature, location, timing, or design of the proposed operation;
- 4) the action is acceptable to the authorized Forest officer based upon a review of the environmental consequences.

### **B.6.1 ALTERNATIVE 3 MITIGATION MEASURES**

Following are the complete descriptions for each stipulation and Lease Notice that would be applied to the resources of concern listed for the leasing Alternative 3. Also included with each stipulation description are the Forest Plan Management Standards that would apply to access and all off-drill-pad development and production related facilities, both on and off lease. These Management Standards are included here so that the intent of the overall management of all oil and gas activities on federal mineral estates is clear.

**WILDLIFE—NSO: Sage and Sharp-tail grouse**

- Resource:** Sage and Sharp-tail grouse
- Stipulation:** No surface occupancy or use is allowed within 1/4 mile of sage and sharptail grouse leks.
- Objective/Justification:** To prohibit disturbance within 1/4 mile of grouse leks for the protection of sage grouse, listed as sensitive species, and sharptail grouse, listed as Management Indicator Species in the Custer Forest Plan (Forest Plan, p. 18 as amended).  
This implements Custer Forest Plan KeySpecies/Critical Timing Period restrictions (Forest Plan, p. 19 as amended).
- Waiver:** This stipulation may be waived if the authorized officer determines that all leks within 1/4 mile of the leasehold have not been used for 5 consecutive years.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that impacts to leks from the proposed action can be adequately mitigated.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting these leks.
- Forest Plan:** All access and other development and production related facilities will be prohibited.

**WILDLIFE—NSO: Golden eagles and prairie falcons**

- Resource:** Golden eagles and prairie falcons
- Stipulation:** No surface occupancy or use is allowed within 1/2 mile (line of site) of golden eagle and prairie falcon nest sites that have been active within the previous 5 years.
- Objective/Justification:** To maintain a 1/2-mile no disturbance zone for nests that have been active within the previous 5 years for the protection of golden eagles and prairie falcons, listed as Key Species in the Custer Forest Plan (Forest Plan, p. 19).  
Increase Custer Forest Plan buffer from 1/4 mile to 1/2 mile to reduce risk associated with lack of consensus in scientific community regarding adequate buffer distances for eagles.
- Waiver:** This stipulation may be waived if the authorized officer determines that the nest site has been completely abandoned or destroyed.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that impacts to eagles and falcons from the proposed action can be adequately mitigated.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting these raptors.
- Forest Plan:** All access and other development and production related facilities will be prohibited.

prohibited. Seasonal exceptions may be allowed for the construction of buried pipelines or powerlines from August 1 through March 1 (non breeding season) for prairie falcons, and from August 1 through February 1 (non breeding season) for golden eagles.

#### **WILDLIFE—NSO: Merlins**

- Resource:** Merlins
- Stipulation:** No surface occupancy or use is allowed within 1/4 mile (line of site) of golden eagle and prairie falcon nest sites that have been active within the previous 5 years.
- Objective/Justification:** Implements Custer Forest Plan to maintain a 1/4-mile no disturbance zone for nests that have been active within the previous 5 years in order for the protection of merlins listed as Key Species in the Custer Forest Plan (Forest Plan, p. 19 as amended).
- Waiver:** This stipulation may be waived if the authorized officer determines that the nest site has been completely abandoned or destroyed.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that impacts to merlin from the proposed action can be adequately mitigated.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting these raptors.
- Forest Plan:** All access and other development and production related facilities will be prohibited. Seasonal exceptions may be allowed for the construction of buried pipelines or powerlines from July 16 through March 14 (non breeding season) for merlins.

#### **WILDLIFE—NSO: Rimrock Ecosystem**

- Resource:** Rimrock Ecosystem (Management Area C)
- Stipulation:** No surface occupancy or use is allowed within these areas.
- Objective/Justification:** To project the rimrock ecosystem and implement Custer Forest Plan lease stipulation direction (Forest Plan, p. 170 as amended)
- Waiver:** This stipulation may be waived if the authorized officer determines that there is no Rimrock ecosystem within the leasehold.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that the proposed action will not impact the integrity of the rimrock ecosystem.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not contain the rimrock ecosystem.
- Forest Plan:** All access and other development and production related facilities will be prohibited. Exceptions may be made for short distances, i.e. 1/4 mile or less, where alternatives are more environmentally disturbing.

**VEGETATION—NSO: Woody draws**

- Resource:** Woody draws (Management Area N).
- Stipulation:** No surface occupancy or use is allowed within these woody draw areas.
- Objective/Justification:** To provide healthy, self-perpetuating plant communities that will have optimum diversity and density of understory and overstory vegetation, and to minimize disturbances to the wildlife dependent upon this system (Forest Plan, p. 83-84).
- Waiver:** This stipulation may be waived if the authorized officer determines that there are no woody draws within the leasehold.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that impacts from the proposed action can be adequately mitigated.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include woody draws.
- Forest Plan:** Access to woody draws to development and production facilities will be allowed, provided there is not another route that is less environmentally disturbing and the route crosses the woody draw at right angles to minimize the disturbance.

**WILDLIFE—CSU: Forested Areas**

- Resource:** Forested areas (including ponderosa pine, juniper, aspen, cottonwood, and areas offering valuable vegetative diversity and seclusion for big game)
- Stipulation:** Surface occupancy or use is subject to the following operating constraints: operational constraints may include off-site production facilities, audio restrictions such as equipment mufflers, and gated access to minimize disturbance to key habitats.
- Objective/Justification:** To minimize disturbance to areas known for their high value to big game, such as areas of valuable vegetative diversity and seclusion (Forest Plan, p. 47 and 55).
- Waiver:** This stipulation may be waived if the authorized officer determines that the entire leasehold no longer contains forested areas.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that impacts from the proposed action can be adequately mitigated.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area no longer contain forested areas.
- Forest Plan:** All access roads will be routed in order to minimize impacts to forested areas as described above.

**VEGETATION—CSU: Resource: Sensitive and Watchlist plant species**

- Resource:** Sensitive and Watchlist plant species
- Stipulation:** Surface occupancy or use is subject to the following operating constraints: occupancy and use may be allowed provided that no surface disturbance occurs within the site boundaries of known sensitive and watchlist plant species populations.
- Objective/Justification:** To protect known sensitive and watchlist plant species populations in order to prevent the species from becoming threatened or endangered (Forest Plan, p. 179 and 180).
- Waiver:** This stipulation may be waived if the authorized officer determines that there are no sensitive plant populations or habitat within the leasehold.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that impacts from the proposed action can be adequately mitigated.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include sensitive plant populations or habitat.
- Forest Plan:** All access and other development and production related facilities will be permitted under the conditions described above.

**WILDLIFE—TL: Eagles**

- Resource:** Eagles
- Stipulation:** No surface use is allowed within 1/2 mile of active eagle nests during the following time period (this does not apply to the operation and maintenance of production facilities): February 1 through July 31.
- Objective/Justification:** To minimize disturbances within nesting habitat during spring and summer in order to maximize annual production of young, and to protect nesting activities adjacent to nesting sites.
- This stipulation increase Custer Forest Plan buffer from ¼-mile to ½ mile and increases the TL period to reduce risk associated with lack of consensus in scientific community regarding adequate buffer distances for eagles.
- Waiver:** This stipulation may be waived if the authorized officer determines that the entire leasehold no longer contains eagle nesting habitat.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that the proposed action avoids disturbing nest habitat.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting nesting habitat.
- Forest Plan:** All development related activities, and the construction of all access and other development and production related facilities, will be prohibited during this time period.

**WILDLIFE—TL: Falcons**

- Resource:** Falcons
- Stipulation:** No surface use is allowed within 1/2 mile of active eagle nests during the following time period (this does not apply to the operation and maintenance of production facilities): March 1 through July 31.
- Objective/Justification:** To minimize disturbances within nesting habitat during spring and summer in order to maximize annual production of young, and to protect nesting activities adjacent to nesting sites.
- This stipulation increase Custer Forest Plan buffer from ¼ mile to ½ mile and increases the TL period to reduce risk associated with lack of consensus in scientific community regarding adequate buffer distances for falcons.
- Waiver:** This stipulation may be waived if the authorized officer determines that the entire leasehold no longer contains falcon nesting habitat.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that the proposed action avoids disturbing nest habitat.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting nesting habitat.
- Forest Plan:** All development related activities, and the construction of all access and other development and production related facilities, will be prohibited during this time period.

**WILDLIFE—TL: Merlins**

- Resource:** Merlins
- Stipulation:** No surface use is allowed within 1/4 mile of active eagle nests during the following time period (this does not apply to the operation and maintenance of production facilities): March 15 through July 15.
- Objective/Justification:** To minimize disturbances within nesting habitat during spring and summer in order to maximize annual production of young, and to protect nesting activities adjacent to nesting sites.
- This implements Custer Forest Plan KeySpecies/Critical Timing Period restrictions (Forest Plan, p. 19 as amended).
- Waiver:** This stipulation may be waived if the authorized officer determines that the entire leasehold no longer contains merlin nesting habitat.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that the proposed action avoids disturbing nest habitat.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting nesting habitat.
- Forest Plan:** All development related activities, and the construction of all access and other

development and production related facilities, will be prohibited during this time period.

### **WILDLIFE—TL: Sage grouse**

**Resource:** Sage grouse

**Stipulation:** No surface use is allowed within 2 miles of sage grouse leks during the following time period (this does not apply to the operation and maintenance of production facilities): March 1 through June 15.

**Objective/Justification:** To minimize ground disturbances within sage grouse nesting habitat during spring and early summer in order to maximize annual production of young, and to protect nesting activities adjacent to nesting sites for long-term maintenance of sage grouse populations in the area (Forest Plan, p. 19 as amended).

This stipulation increase Custer Forest Plan buffer and increases the TL period to reduce risk associated with lack of consensus in scientific community regarding adequate buffer distances.

**Waiver:** This stipulation may be waived if the authorized officer determines that the entire leasehold no longer contains sage grouse nesting habitat

**Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that the proposed action avoids nest habitat.

**Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting nesting habitat.

**Forest Plan:** All development related activities, and the construction of all access and other development and production related facilities, will be prohibited during this time period.

### **WILDLIFE—TL: Sharp-tail grouse**

**Resource:** Sharp-tail grouse

**Stipulation:** No surface use is allowed within 1 mile of sharptail grouse leks during the following time period (this does not apply to the operation and maintenance of production facilities): March 1 through June 15.

**Objective/Justification:** To minimize ground disturbances within sharptail grouse nesting habitat during spring and early summer in order to maximize annual production of young, and to protect nesting activities adjacent to nesting sites for long-term maintenance of sharptail grouse populations in the area (Forest Plan, p. 19 as amended).

This stipulation increase Custer Forest Plan buffer and increases the TL period to reduce risk associated with lack of consensus in scientific community regarding adequate buffer distances.

**Waiver:** This stipulation may be waived if the authorized officer determines that the entire leasehold no longer contains sharptail grouse nesting habitat

- entire leasehold no longer contains sharptail grouse nesting habitat
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that the proposed action avoids nest habitat
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting nesting habitat.
- Forest Plan:** All development related activities, and the construction of all access and other development and production related facilities, will be prohibited during this time period.

**WILDLIFE—TL: Goshawk**

- Resource:** Mature Forested Areas
- Stipulation:** No surface use is allowed within mature forested areas during the following time period (this does not apply to the operation and maintenance of production facilities): March 1 to September 30.
- Objective/Justification:** To protect goshawk potential nest stands and post-fledging family area (PFA) in mature forest habitat.  
Goshawk are a MIS species for old growth timber. (Forest Plan, p. 18).
- Waiver:** The current situation indicates that approval of a waiver would be unlikely.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that impacts from the proposed action can be adequately mitigated.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the mature forest are not habitat for potential nest stands and post-fledging family area (PFA).
- Forest Plan:** All access roads will be routed in order to minimize impacts to mature forested areas.

**SOILS—NSO: Mines**

- Resource:** Abandoned Mines, Mine Spoils, and Exploratory Excavations
- Stipulation:** No surface occupancy or use is allowed within these areas.
- Objective/Justification:** To protect health and safety
- Waiver:** This stipulation may be waived if the authorized officer determines that no hazardous mine sites exist within the leasehold.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that the proposed action will mitigate all hazardous health and safety conditions.

**Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not contain hazards to health and safety.

**Forest Plan:** All access and other development and production related facilities will be prohibited.

**SOILS—NSO: Steep slopes and mass failure hazards**

**Resource:** Slopes greater than 40 percent, and areas of mass failure hazard.

**Stipulation:** No surface occupancy or use is allowed within these areas.

**Objective/Justification:** To protect soil resources from loss of productivity, and from loss of water to prevent increased sedimentation due to failures of the overlying slopes (Forest Plan, p. 46, 47, 51, 55 and 59).

**Waiver:** This stipulation may be waived if the authorized officer determines that there are no steep slopes within the leasehold.

**Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that the proposed action will not impact the integrity of steep slopes.

**Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not contain steep slopes.

**Forest Plan:** All access and other development and production related facilities will be prohibited. Exceptions may be made for short distances, i.e. 1/4 mile or less, where this will minimize the total impacts to the area.

**RIPARIAN—CSU: Riparian areas**

**Resource:** Riparian areas (Management Area M), including the aquatic ecosystem (riverbed, perennial stream/river channels, shorelines, floodplains, wetlands) and the riparian ecosystem (transition between the aquatic and adjacent terrestrial ecosystem, composed of distinctive soil and distinctive vegetative communities, usually within 100 feet of the aquatic ecosystem).

**Stipulation:** Surface occupancy and use is subject to the following operating constraints: avoid the location of drill pads within the aquatic ecosystem, and avoid disturbance to the distinctive vegetative communities within the riparian ecosystem.

**Objective/Justification:** To protect the biological and hydrological features associated with riparian areas (Forest Plan, p. 81 as amended).

**Waiver:** This stipulation may be waived if the authorized officer determines that there are no riparian areas within the leasehold.

**Exception:** The current situation indicates that approval of a exception would be unlikely. An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that impacts from the proposed action can be adequately mitigated.

- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include riparian areas.
- Forest Plan:** Access through riparian areas to development and production facilities will be allowed, provided there is not another route that is less environmentally disturbing and the route crosses the riparian areas at right angles to minimize the riparian disturbance.

#### **RECREATION—NSO: Developed Sites**

- Resource:** Developed recreation sites **Error! Bookmark not defined.** (Management Area F).
- Stipulation:** No surface occupancy or use is allowed within Management Area F.
- Objective/Justification:** To maintain the recreation opportunities and settings within developed recreation areas (Forest Plan, p. 62).
- Waiver:** The current situation indicates that approval of a waiver would be unlikely.
- Exception:** The current situation indicates that approval of an exception would be unlikely.
- Modification:** The current situation indicates that approval of a modification would be unlikely.
- Forest Plan:** All access and other development and production related facilities will be prohibited within this area.

#### **WILDLIFE—NSO: Deer Draw Proposed Natural Area (RNAs)**

- Resource:** Proposed Deer Draw RNA
- Stipulation:** No surface occupancy or use is allowed within the established boundaries of this RNA.
- Objective/Justification:** To protect against activities which directly or indirectly modify the naturally occurring ecological processes with the RNA (Forest Plan, p. 78-79).
- Waiver:** The current situation indicates that approval of a waiver would be unlikely.
- Exception:** The current situation indicates that approval of an exception would be unlikely.
- Modification:** The current situation indicates that approval of a modification would be unlikely.
- Forest Plan:** All access and other development and production related facilities will be prohibited.

**RECREATION—TL: Developed Sites**

<b>Resource:</b>	Developed recreation sites (Management Area F).
<b>Stipulation:</b>	No surface use is allowed within 1/4 mile of Management Area F during the period May 5 through September 15.
<b>Objective/ Justification:</b>	To maintain the recreation opportunities and settings within developed recreation areas (Forest Plan, p. 62).
<b>Waiver:</b>	The current situation indicates that approval of a waiver would be unlikely.
<b>Exception:</b>	The current situation indicates that approval of an exception would be unlikely.
<b>Modification:</b>	The current situation indicates that approval of a modification would be unlikely.
<b>Forest Plan:</b>	Construction of all access and other development and production related facilities will be prohibited during this time period.

**SPECIAL MANAGEMENT AREA—NSO: National Natural Landmarks**

<b>Resource:</b>	National Natural Landmarks (Management Area O)
<b>Stipulation:</b>	No surface occupancy or use is allowed within Management Area O.
<b>Objective/ Justification:</b>	To project National Natural Landmarks.
<b>Waiver:</b>	The current situation indicates that approval of a waiver would be unlikely.
<b>Exception:</b>	The current situation indicates that approval of an exception would be unlikely.
<b>Modification:</b>	The current situation indicates that approval of a modification would be unlikely.
<b>Forest Plan:</b>	All access and other development and production related facilities will be prohibited.

**CULTURAL RESOURCES—NSO: Proposed Ludlow Cave Archaeological District**

<b>Resource:</b>	Proposed Ludlow Cave Archaeological District
<b>Stipulation:</b>	No surface occupancy or use is allowed within Proposed Ludlow Cave Archaeological District.
<b>Objective/ Justification:</b>	To provide maximum protection required for these traditional cultural use properties (Forest Plan, p. 14-16).
<b>Waiver:</b>	The current situation indicates that approval of a waiver would be unlikely.
<b>Exception:</b>	The current situation indicates that approval of an exception would be unlikely.

- Modification:** The current situation indicates that approval of a modification would be unlikely.
- Forest Plan:** Access would only be allowed if alternative routes were shown to be more disturbing to cultural values and the impact was fully mitigated.

### **CULTURAL RESOURCES—NSO: North Cave Hills and Slim Buttes Land Units**

- Resource:** Traditional cultural properties.
- Stipulation:** No surface occupancy or use is allowed within the North Cave Hills and Slim Buttes Land Units.
- Objective/Justification:** To provide maximum protection required for these traditional cultural use properties (Forest Plan, p. 14-16).
- Waiver:** This stipulation may be waived if the authorized officer determines that there are no traditional cultural properties within the leasehold.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that the proposed action will not impact any traditional cultural properties.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not contain traditional cultural properties.
- Forest Plan:** Access would only be allowed if alternative routes were shown to be more disturbing to cultural values and the impact was fully mitigated.

### **CULTURAL RESOURCES—NSO: Sensitive Cultural Sites**

- Resource:** Sensitive Cultural Sites
- Stipulation:** No surface occupancy or use is allowed on or within ¼ mile of Sensitive Cultural Sites.
- Objective/Justification:** To provide maximum protection required for these traditional cultural use properties (Forest Plan, p. 14-16).
- Waiver:** This stipulation may be waived if the authorized officer determines that there are no traditional cultural properties within the leasehold.
- Exception:** An exception to this stipulation may be granted by the authorized officer if the operator submits a plan demonstrating that the proposed action will not impact any traditional cultural properties.
- Modification:** The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not contain traditional cultural properties.
- Forest Plan:** Access would only be allowed if alternative routes were shown to be more disturbing to cultural values and the impact was fully mitigated.

**MANAGEMENT RESOURCES—NSO: Administrative Site**

<b>Resource:</b>	Administrative Sites (Management Area P)
<b>Stipulation:</b>	No surface occupancy or use is allowed within Management Area P.
<b>Objective/ Justification:</b>	To project administrative sites (Forest Plan, p. 171).
<b>Waiver:</b>	The current situation indicates that approval of a waiver would be unlikely.
<b>Exception:</b>	The current situation indicates that approval of an exception would be unlikely.
<b>Modification:</b>	The current situation indicates that approval of a modification would be unlikely.
<b>Forest Plan:</b>	All access and other development and production related facilities will be prohibited.

**SURFACE RESOURCES—CSU: Cumulative Impacts**

<b>Resource:</b>	All Surface Resources
<b>Stipulation:</b>	Surface occupancy restrictions including limiting density of facilities may be applied to mitigate the cumulative effects of development beyond the quantities and spacing projected in the RFD.
<b>Objective/ Justification:</b>	To restrict the number and/or location of concurrent oil and gas activities where intensive development or <b>cumulative impacts</b> may significantly affect other surface resources (Forest Plan, p. 55).
<b>Waiver:</b>	N/A
<b>Exception:</b>	Where lessee can demonstrate development quantities or densities in excess of the RFD projection will have minimal impact to surface resources an exception may be granted.
<b>Modification:</b>	Where lessee can demonstrate development quantities or densities in excess of the RFD projection will have minimal impact to surface resources a modification may be granted.
<b>Forest Plan:</b>	Access would only be allowed if alternative routes were shown to be more disturbing to surface resources and the impact was fully mitigated.

**SCENIC RESOURCES—NSO: Retention Visual Quality Objective (VQO)**

<b>Resource:</b>	Scenic
<b>Stipulation:</b>	When the project-specific scenic analysis is conducted, if the VQO is determined to be Retention, the scenic condition must be “unnoticed alterations,” and the proposed offending structure must be relocated or abandoned unless a Forest Plan Amendment is implemented.
<b>Objective/ Justification:</b>	To met the Custer National Forest VQOs (Forest Plan, p. 14).
<b>Waiver:</b>	N/A
<b>Exception:</b>	An exception may be allowed where the lessee demonstrates the VQO of Retention can be met.
<b>Modification:</b>	A modification may be allowed where the lessee demonstrates the VQO of Retention can be met.
<b>Forest Plan:</b>	Access would only be allowed if the Retention VQO can be met.

**SCENIC RESOURCES—CSU: Visual Quality Objectives (VQOs)**

<b>Resource:</b>	Scenic
<b>Stipulation:</b>	When the project-specific scenic analysis is conducted, if the VQO is determined to be Partial Retention or Modification, lessee must submit visual simulations with plans for Forest Service approval demonstrating that all structures will be visually subordinate to the surrounding landscape.
<b>Objective/ Justification:</b>	To met the Custer National Forest VQO’s (Forest Plan, p. 14).
<b>Waiver:</b>	N/A
<b>Exception:</b>	An exception may be allowed where the lessee demonstrates the VQO can be met.
<b>Modification:</b>	A modification may be allowed where the lessee demonstrates the VQO Retention can be met.
<b>Forest Plan:</b>	Access would only be allowed if the VQO can be met.

## **B.6.2 LEASE NOTICES**

The following Lease Notices are proposed to be included on all leases. This is not an all inclusive list. Other Lease Notices may be included:

1. Notice for Lands of the National Forest System under Jurisdiction of the Department of Agriculture.

2. Cultural and Paleontological Resources.

Authorities: Compliance with Section 106 of the National Historic Preservation Act is required for all actions that may affect cultural properties eligible to the National Register of Historic Places. Section 6 of the Oil and Gas Lease Terms (Form 3100-11) requires that operations be conducted in a manner that minimizes adverse impacts to cultural and other resources. Other authority includes the Forest Plan as required by the National Forest Management Act of 1976.

3. Floodplain and Wetlands.

Authorities: Executive Order 11990 Protection of Wetlands, Executive Order 11988 Floodplain Management, 36 CFR 219.23, 36 CFR 219.27(e), and the Forest Plan as required by the National Forest Management Act of 1976.

4. Threatened, Endangered, and Sensitive Plant or Animal Species.

This lease notice will only apply to all federal minerals. The threatened and endangered species encountered during oil and gas operations on federal leases will be protected according to the provisions of the Endangered Species Act of 1973. The Forest Service and BLM have incorporated sensitive species policies in their management of federal lands; however, the BLM policy is different in scope, content and application than the Forest Service policy.

Authorities: Endangered Species Act of 1973 (as amended), Section 6 of the Oil and Gas Lease Terms (Form 3100-11), 50 CFR 402, 36 CFR 219.19, 36 CFR 219.26, and the Forest Plan as required by the National Forest Management Act of 1976.

These Lease Notices are displayed on the following pages.

Serial No.

FS Parcel 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 in Title 36, Chapter II, of the 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 the 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  
Custer National Forest  
1310 Main Street  
Billings, MT 59105

who is the authorized representative of the Secretary of Agriculture.

**CULTURAL AND PALEONTOLOGICAL RESOURCES**—The FS 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. If a survey is required, then:
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 that 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 operation 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 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 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.

**FLOODPLAIN AND WETLANDS**—The lessee is hereby notified that this lease may contain land within a riparian ecosystem (Management Area M, Custer Forest Plan, page 80). 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.”

Management Area M, the riparian ecosystem, 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 Management Area M proposed in a Surface Use Plan of Operations will be considered in an environmental analysis performed 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.

Serial No.

Parcel No.

### **THREATENED, ENDANGERED, AND SENSITIVE PLANT OR ANIMAL SPECIES LEASE NOTICE**

The lease area may contain threatened and endangered species or habitat necessary for the continued existence of threatened, proposed, and endangered species that are protected by the 1973 Endangered Species Act, as amended (50 CFR 402). The lease area may also contain habitat or species listed as sensitive, 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 threatened, endangered, 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 (FSM 2670.31-32). 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 sensitive.
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 performed 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 threatened, endangered, 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 approval of drilling 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 may result in some 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 regulations, and Forest Service regulations.

If threatened, endangered, 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.