



United States Department of the Interior
Bureau of Land Management

Miles City District

February 1994



OIL and GAS RMP / EIS AMENDMENT RECORD OF DECISION



The Bureau of Land Management is responsible for the stewardship of our public lands. It is committed to manage, protect, and improve these lands in a manner to serve the needs of the American people for all times. Management is based on the principles of multiple use and sustained yield of our nation's resources within a framework of environmental responsibility and scientific technology. These resources include recreation; rangelands; timber; minerals; watershed; fish and wildlife; wilderness; air; and scenic, scientific, and cultural values.

BLM/MTPL-94/004+4110



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
Montana State Office
222 North 32nd Street
P.O. Box 36800
Billings, Montana 59107-6800

Dear Reader:

Enclosed is a copy of the Record of Decision for the Miles City District Oil and Gas EIS/Plan Amendment (Amendment) to the Billings, Powder River and South Dakota Resource Management Plans (RMPs). The decisions contained in the Record of Decision were analyzed in the Final EIS/Amendment published in December 1992.

The Meeteetse Spires and Weatherman Draw proposed Areas of Critical Environmental Concern (ACECs) were analyzed and proposed to be designated as ACECs in the Amendment. The ROD includes the decision to withhold implementation of the leasing decisions in the Meeteetse Spires and Weatherman Draw areas. The two areas will be analyzed in greater detail for all resources and land uses in a separate Plan Amendment which will also analyze six other areas nominated as ACECs.

The approved Amendment is the basic guide for management of oil and gas resources on approximately 4.8 million acres of federal oil and gas estate administered by the Bureau of Land Management in southeastern Montana and the State of South Dakota.

We appreciate your time and effort regarding this project, and we look forward to your continued interest in the management of your public land resources.

Sincerely,

State Director
Robert H. Lawton

RECORD OF DECISION
OIL AND GAS AMENDMENT

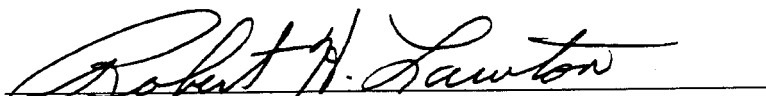
**Billings – Powder River – South Dakota
Resource Management Plans/
Environmental Impact Statements**

FEBRUARY 1994

Prepared By:
United States Department of the Interior
Bureau of Land Management
Billings, Powder River, and South Dakota Resource Areas
Miles City District

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DECIDING OFFICIAL:



ROBERT H. LAWTON
State Director
Land and Minerals Management

02/02/94
DATE

INTRODUCTION

The Decision Being Made

The decision being made is whether or not to amend the Billings, Powder River, and South Dakota Resource Management Plans (RMPs). The basis for this decision is an analysis conducted by the BLM. This analysis is documented in the Final Environmental Impact Statement (FEIS) for Oil and Gas Amendments to RMPs in the Miles City District, published in December, 1992. The amendments under consideration involve one aspect of public land management: oil and gas leasing and development.

OIL AND GAS LEASING AND DEVELOPMENT

The amendments under consideration consist of a number of oil and gas related determinations. These determinations are required by Bureau of Land Management (BLM) supplemental program guidance for energy and mineral resources (BLM Manual 1624.21 and Handbook H-1624-1). They would apply, in this case, to federal minerals administered by the BLM within the Billings, Powder River, and South Dakota Resource Areas. They would not apply to federal minerals under the surface of lands managed by the following federal agencies: Forest Service, National Park Service, Bureau of Indian Affairs and Fish and Wildlife Service, nor Indian Tribes or federal minerals under private lands within the administrative boundaries of National Forest System Lands. They include:

1. Whether or not any areas should be open to oil and gas leasing and development, subject only to the terms and conditions identified on the standard BLM lease form. These would be areas where it has been determined that the terms and conditions of the standard lease form are sufficient to protect other land uses or resource values.
2. Whether or not any areas should be open to oil and gas leasing and development, subject to seasonal or other minor constraints in addition to the terms and conditions identified on the standard lease form. These would be areas where it has been determined that moderately restrictive lease stipulations are required to mitigate impacts to other land uses or resource values.
3. Whether or not any areas should be open to oil and gas leasing and development, subject to no surface occupancy (NSO) or similar major constraints in addition to the terms and conditions identified on the standard lease form. These would be areas where it has been determined that highly restrictive lease stipulations are required to mitigate impacts to other land uses or resource values. These would include areas where a number of seasonal or other minor constraints, when taken together, would severely restrict development of fluid mineral resources.
4. Whether or not any areas should be closed to oil and gas leasing and development. These would be areas where it has been determined that other land uses or resource values cannot be adequately protected even with the most restrictive lease stipulations, and that appropriate protection can only be ensured by closing such areas to leasing. Closures may be either discretionary or nondiscretionary.
5. The stipulations that will be employed in areas that are open to leasing.
6. The circumstances under which stipulations attached to a lease may or may not be waived, excepted or modified and the documentation requirements needed to support a decision to grant or deny a lease stipulation waiver, exception, or modification.
7. Whether or not geophysical exploration will be permitted in a manner different from oil and gas leasing and development.

AREAS OF CRITICAL ENVIRONMENTAL CONCERN (ACECS)

The amendments under consideration originally included the possible designation and protective management of qualifying public lands as ACECs. Two areas known as Meeteetse Spires and Weatherman Draw were fully evaluated and were found to contain relevant and important resources and values.

After issuance of the draft Amendment/EIS, six additional areas were nominated for ACEC designation. These areas will be evaluated and possibly designated as ACECs in a future RMP amendment which will address all resource management decisions. ACEC designation and management decisions for the Meeteetse Spires and Weatherman Draw areas will also be addressed in that plan amendment.

Decisions Not Being Made

This decision does not include approval of any specific oil and gas exploration, production, or development activities.

The FEIS documents the direct, indirect, and cumulative effects which may result from the issuance of oil and gas leases based on an associated scenario of reasonably foreseeable development activities. The analysis recognizes that a decision to make lands available for leasing represents a commitment to allow surface use for development under standard lease terms and conditions unless stipulations constraining development are attached to leases. Thus, the analysis assumes that roads, wells, pipelines, and production facilities may be developed in some areas. These assumptions do not represent proposed or planned activities. They were analyzed in the FEIS to disclose the range of long term effects which may result from the issuance of oil and gas leases.

Authority for the Decision

The State Director, BLM, U.S. Department of the Interior, is authorized to make this decision pursuant to regulations governing approval of resource management plans and amendments (43 CFR 1610.5-1).

Background Information

The RMPs to be amended were completed in 1984, 1985, and 1986, and provide management guidance for a wide range of resources and values on public lands administered by the Bureau of Land Management (BLM), including the management of oil and gas resources. In 1987, the BLM issued new manual guidance for the planning of oil and gas resources and subsequently decided to evaluate these RMPs under this new planning guidance.

CONSULTATION AND PUBLIC INVOLVEMENT

Public Involvement in Identifying Issues

The FEIS on the proposed amendment was prepared by specialists from the Miles City District and the Billings, Powder River, and South Dakota Resource Areas, with assistance from the Montana State Office. Preparation of the FEIS began with the public notice printed in the Federal Register dated November 21, 1988.

Public participation and consultation during the preparation of the draft EIS began in 1988 with public scoping meetings in Miles City and Billings, Montana, and Belle Fourche, South Dakota. A brochure was mailed to

approximately 500 addresses on November 18, 1988. It described the goals of the proposed amendments and the area to be covered; also included was a response card for the return of comments related to the proposal. The major goal of the mailing was to identify the issues that the public wanted considered in the EIS.

Summary of Public Involvement on the Draft and Final EIS

The notice of availability for the Draft EIS appeared in the Federal Register on January 10, 1992. Publication of the draft was followed by a 120-day comment period. Over 1,000 copies of the draft were mailed for review and comment to Federal, state, and local governments; private groups and organizations; and individuals. News releases in local papers provided information about obtaining copies of the draft. Public meetings were held to receive comments on the draft on March 10, 1992 in Belle Fourche, South Dakota; March 11, 1992 in Miles City, Montana; and March 12, 1992 in Billings, Montana. The draft document was commented on by 27 individuals or organizations.

A number of corrections and modifications were made between the draft and final documents, largely in response to public comments. All public comments were carefully reviewed and considered. The FEIS was published in December 1992 with the Notice of Availability appearing in the Federal Register on December 28, 1992. The 30 day protest period ended on January 28, 1993.

Consultation with Other Agencies

Federal and state agencies, Native American tribes, and interest groups were contacted individually to gather input for this EIS. Consultation was conducted with other resource management agencies at the Federal and state level to identify common concerns for the planning effort. Consultation under Section 7 of the Endangered Species Act was initiated with the U.S. Fish and Wildlife Service (USFWS). The FEIS contains the biological assessment and USFWS biological opinion on the impacts from the amendments to threatened and endangered species.

DECISION

It is my decision to approve the preferred alternative (Alternative D) identified in the FEIS, and to amend the Billings, Powder River, and South Dakota RMPs accordingly.

However, I will withhold implementation of this decision on 138,825 acres in the Meeteetse Spires and Weatherman Draw areas and the six areas (Pompeys Pillar, Bridger Fossil/Red Dome, Pryor Mountains, Deadhorse Badlands, Finger Buttes and Fossil Cycad) nominated for ACEC designation, pending further evaluation required by BLM Manual 1613. I will refrain from issuing new oil and gas leases in these areas during the period of review. This means that areas which are found to meet the relevance and importance criteria will be withheld from leasing until they have been fully evaluated for ACEC designation and management. Areas which do not meet the relevance and importance criteria will be made available for leasing, subject to the terms of this decision, following public notice.

Oil and Gas Leasing and Development

The following oil and gas related determinations will hereafter apply to federal minerals administered by the BLM within the Billings, Powder River, and South Dakota Resource Areas. These determinations were described in the FEIS (Chapter 2 and Maps 1-5) and include:

1. Approximately 2,840,000 acres will be open to oil and gas leasing and development, subject only to the terms and conditions identified on the standard BLM lease form. These are areas where I have determined that the terms and conditions of the standard lease form are sufficient to protect other land uses or resource values.

2. Approximately 2,163,000 acres will be open to oil and gas leasing and development, subject to seasonal or other minor constraints in addition to the terms and conditions identified on the standard lease form. These are areas where I have determined that moderately restrictive lease stipulations are required to mitigate impacts to other land uses or resource values.
3. Approximately 108,000 acres will be open to oil and gas leasing and development, subject to no surface occupancy (NSO) or similar major constraints in addition to the terms and conditions identified on the standard lease form. These are areas where I have determined that highly restrictive lease stipulations are required to mitigate impacts to other land uses or resource values. These include areas where a number of seasonal or other minor constraints, when taken together, would severely restrict development of fluid mineral resources.
4. Approximately 60,000 acres will be closed to oil and gas leasing and development. This includes approximately 41,000 acres within wilderness study areas, which will remain closed until Congress determines otherwise. Approximately 19,000 acres involve areas where I have determined that other land uses or resource values cannot be adequately protected even with the most restrictive lease stipulations, and that appropriate protection can only be ensured by closing such areas to leasing.
5. The lease stipulations described in Alternative D of Appendix B of the FEIS and attached to this ROD in Appendix A will be attached to leases issued as a result of this decision.
6. Stipulations attached to a lease may be waived, excepted, or modified at the discretion of the authorizing officer during the environmental review process conducted for proposed Applications for Permit to Drill (APD) or other permits related to oil and gas exploration and development. Waivers, exceptions, and modifications of stipulations must be granted in accordance with the guidelines identified in the FEIS, Appendix B, Alternative D (Preferred Alternative) and also attached to this ROD in Appendix A.
7. Geophysical exploration will be permitted according to the guidelines provided in the FEIS, Appendix A (Geophysical Management) and also attached to this ROD in Appendix A.

These determinations will be implemented in response to applications for oil and gas leases, geophysical exploration, and related development activities. However, new or additional stipulations will not be attached to existing leases.

RATIONALE FOR THE DECISION

Oil and Gas Leasing Policy

This decision implements BLM policy developed in response to three important acts of Congress (the Mining and Minerals Policy Act of 1970, the Federal Land Policy and Management Act (FLPMA) of 1976 and the National Materials and Minerals Policy, Research and Development Act of 1980) that direct the Federal Government to foster the development of a stable domestic minerals industry and the orderly and economic development of domestic mineral resources, and to also manage the public lands in a manner which recognizes the Nation's need for domestic sources of minerals and other resources. In summary, this policy deals with the availability of lands for oil and gas leasing and recommends that lands be made available, when such lands are legally available for leasing, when opening lands to leasing ensures adequate protection to other resources or land uses, when leasing determinations are made through the planning process in compliance with the National Environmental Policy Act (NEPA) of 1970 and FLPMA, and when the leasing decisions, including the development of lease stipulations, ensure a balance between environmental protection and opportunities for oil and gas development.

Resolution of Issues

This decision amends the Billings, Powder River, and South Dakota RMPs consistent with Alternative D in the FEIS. I have chosen Alternative D because it most effectively resolves the issues raised during the planning process. Issues identified during the scoping process included classification of federal lands as open or closed to leasing, identification of impacts to other resources from oil and gas activities, identification of mitigation measures and application of federal decisions to privately owned surface over federal minerals.

Alternative D designates lands closed to oil and gas leasing where oil and gas activities would not be compatible with other resources or land uses even with mitigation measures. Alternative D designates lands open to oil and gas leasing, subject to appropriate mitigation measures, where oil and gas activities would be compatible with other resources or land uses. Impacts to other resources and land uses, and measures to mitigate such impacts, are described in Chapter 4 of the FEIS. Alternative D includes mitigation measures that will protect and maintain or provide for the recovery of other resources while allowing for economical oil and gas activities. Information about the application of federal oil and gas lease constraints on privately owned surface and surface owner involvement in the federal leasing process is found in Appendix B of the FEIS.

Consistency with Applicable Policies, Plans, and Programs

The BLM's planning regulations require that RMPs be "consistent with officially approved or adopted resource related plans, and the policies and programs contained therein, of other federal agencies, state and local governments, and Indian tribes, so long as the guidance and resource management plans are also consistent with the purposes, policies, and programs of federal law, and regulations applicable to public lands...." (43 CFR 1610.3-2).

All Federal, state, and local agencies and Tribal councils were requested to review the amendment and to inform the BLM of any inconsistencies. Based on this review, I conclude that Alternative D is fully consistent with all applicable policies, plans, and programs of other federal agencies, state and local governments, and Indian tribes. If it is determined through monitoring or other means that such policies, plans, or programs are not being met, this decision will be modified to bring it into compliance.

ALTERNATIVES CONSIDERED

Alternatives Considered in Detail

Four alternatives were developed to analyze impacts and to address issues related to the leasing and production of oil and gas in the planning area.

Alternative A (No Action) is the continuation of present management decisions. Standard and special stipulations and lease terms would apply to all lands identified by existing resource inventories and land use decisions in the original plans. This alternative was analyzed to identify any changes in resource allocations which should be made in order to develop oil and gas while protecting other resource values.

Alternative B emphasizes the protection of natural and cultural resources while allowing the development of oil and gas. Some stipulations from Alternative A would be changed to a more restrictive level of protection. Discretionary No Lease decisions for the protection of Fort Meade Recreation Area, the Pryor Mountain Wild Horse Range, Meeteetse Spires, Rosebud Battlefield, Dryhead Overlook, and the Powder River Big Horn Sheep Range were analyzed in this alternative. This alternative would provide the most restrictions on oil and gas activities while protecting natural and cultural resources.

Alternative C emphasizes the availability of public land for oil and gas exploration and development with the lowest acreage constrained by lease stipulations of any of the alternatives analyzed in detail. Most of the stipulations from Alternative B would be used; however, some less restrictive stipulations were also analyzed. No stipulations would be used to protect resources, except for threatened and endangered species and cultural resources, in areas classified as high development potential. Other resources in high development potential areas would be protected by provisions of the lease terms and regulatory authorizations. Resources in low and moderate development potential areas would be protected by specific stipulations or lease terms and regulatory authorizations. Only Wilderness Study Areas would be designated as No Lease areas.

Alternative D proposes a balance between the demands of oil and gas resource development and the protection of sensitive areas and other resources. Stipulations from the other alternatives would be used to provide resource protection while allowing the development of oil and gas resources. Resources would be protected by stipulations or provisions of the lease terms and regulatory authorizations. The Pryor Mountain Wild Horse Range, the Fort Meade Recreation Area and the Meeteetse Spires area would be designated as No Lease areas.

Environmentally Preferable Alternatives

Identification of the environmentally preferable alternative involves difficult judgements because the effects to the biological, physical and human environment must all be considered along with the social, economic and other requirements of present and future generations. On the basis of effects on only biological and physical factors, Alternative B is the environmentally preferable alternative. Under this alternative oil and gas exploration and development would still be allowed, but the acreage closed to leasing and constrained by No Surface Occupancy stipulations would be greater than any of the alternatives analyzed in detail, resulting in the least damage to the biological and physical environment. However, based on consideration of the biological and physical environment and the human environment, including social and economic factors, Alternative D is also considered an environmentally preferable alternative. Alternative D allows exploration and development of oil and gas resources in areas where such activities can be compatible with other resources and land uses with the use of mitigation measures. Alternative D closes certain areas to oil and gas activities where such activities would not be compatible with other resources or land uses. Alternative D would also result in the most earnings from employment and revenue from rents and royalties.

Alternatives Considered But Not Analyzed in Detail

Three additional alternatives were considered, but not analyzed in detail: no leasing, maximum fluid mineral development, and minimum fluid mineral development.

A No Lease alternative for the entire planning area was not analyzed in detail because that option would be contrary to the Federal Land Use Policy and Management Act (FLPMA). Neither public or internal scoping indicated a need for such an alternative.

A Maximum Fluid Mineral Development alternative, which would only provide protection for other resources and land uses with the use of standard lease terms and conditions of approval during lease development, was not analyzed in detail because existing information shows the need for additional protection to certain resources and land uses from oil and gas activities at the leasing stage. Neither public or internal scoping indicated a need for such an alternative.

A Minimum Fluid Mineral Development alternative, which would allow oil and gas leasing but would severely affect lease operations, was not analyzed in detail because existing information shows oil and gas activities can be compatible with other resources and land uses with proven mitigation measures. Neither public or internal scoping indicated a need for such an alternative.

MITIGATION AND MONITORING

The FEIS describes potential impacts to other resources from oil and gas activities. Potential mitigation measures, including lease stipulations, are presented in Chapter 2 and Appendix B, while conditions of approval are included in Appendix A. These mitigation measures are also attached to this ROD in Appendix A.

The lease stipulations described in Alternative D of Appendix B of the FEIS will be implemented as a result of this decision. The conditions of approval described in Appendix A of the FEIS also will be implemented as a result of this decision. Additional conditions of approval which provide site specific mitigation can be included with approved permits for lease operations. The site specific conditions of approval will be designed to protect the unique site characteristics and to implement the guidelines and meet the goals described in the BLM/FS brochure entitled "Surface Operating Standards for Oil and Gas Exploration and Development" (1989).

All practical mitigation measures from Alternative D that are needed to avoid or minimize environmental harm have been adopted.

The effects of implementing this decision will be monitored and periodically evaluated. Monitoring will determine whether actions are consistent with current policy, whether original assumptions and impacts were accurately predicted, and whether mitigation measures are satisfactory. Monitoring will be accomplished through the BLM Oil and Gas Inspection and Enforcement program as described in Appendix A of the FEIS. If monitoring and evaluation indicate that a change is needed in mitigation measures or in other aspects of this decision, such changes will be implemented.

PROTEST PROCEDURES AND SIGNATURE

A 30-day protest period for the proposed amendments of the Billings, Powder River, and South Dakota RMPs ended on January 28, 1993. The regulations at 43 CFR 1610.5-2 do not provide for any additional administrative review of this decision. However, implementation of this decision through future authorization of leases, permits, and other actions, may be administratively reviewed at the time such authorizations are made. Such review would be conducted in accordance with regulations at 43 CFR 3120.1-3, 43 CFR 3150.2, 43 CFR 3165.3, 43 CFR 3165.4 and 43 CFR 4.

APPENDIX A

STIPULATIONS FOR ALTERNATIVE D, THE PREFERRED

NO SURFACE OCCUPANCY

RESOURCE: Coal.

STIPULATION: Surface occupancy and use is prohibited within existing coal leases with approved mining plans.

OBJECTIVE: To protect existing coal leases with approved mining plans.

EXCEPTION: An exception may be granted by the authorized officer if the operator submits a plan of operation which is compatible with existing or planned coal mining operations and is approved by all affected parties.

MODIFICATION: The area affected by this stipulation may be modified by the authorized officer if it is determined that portions of the area are not needed for existing or planned mining operations, or where mining operations have been completed, and the modification is approved by all affected parties.

WAIVER: This stipulation may be waived by the authorized officer if it is determined that all coal lease operations within the leasehold have been completed, or if the lease is terminated, canceled, or relinquished.

NO SURFACE OCCUPANCY

RESOURCE: Riparian/Hydrology.

STIPULATION: Surface occupancy and use is prohibited within riparian areas, 100-year flood plains of major rivers, and on water bodies and streams.

OBJECTIVE: To protect the unique biological and hydrological features associated with riparian areas, 100-year flood plains of major rivers, and water bodies and streams.

EXCEPTION: An exception to this stipulation may be granted by the authorized officer if the operator submits a plan which demonstrates that impacts from the proposed action are acceptable or can be adequately mitigated.

MODIFICATION: The area affected by this stipulation may be modified by the authorized officer if it is determined that portions of the area do not include riparian areas, flood plains, or water bodies.

WAIVER: This stipulation may be waived by the authorized officer if it is determined that the entire leasehold does not include riparian areas, flood plains, or water bodies.

CONTROLLED SURFACE USE

RESOURCE: Soils.

STIPULATION: Prior to surface disturbance on slopes over 30 percent, an engineering/reclamation plan must be approved by the authorized officer. Such plan must demonstrate how the following will be accomplished:

- Site productivity will be restored.
- Surface runoff will be adequately controlled.

- Off-site areas will be protected from accelerated erosion, such as rilling, gullyng, piping, and mass wasting.
- Water quality and quantity will be in conformance with state and Federal water quality laws.
- Surface-disturbing activities will not be conducted during extended wet periods.
- Construction will not be allowed when soils are frozen.

OBJECTIVE: To maintain soil productivity, provide necessary protection to prevent excessive soil erosion on steep slopes, and to avoid areas subject to slope failure, mass wasting, piping, or having excessive reclamation problems.

EXCEPTION: None.

MODIFICATION: The area affected by this stipulation may be modified by the authorized officer if it is determined that portions of the area do not include slopes over 30 percent.

WAIVER: This stipulation may be waived by the authorized officer if it is determined that the entire leasehold does not include slopes over 30 percent.

LEASE NOTICE

RESOURCE: Land Use Authorizations

MANAGEMENT DECISION: Land Use Authorizations incorporate specific surface land uses allowed on BLM administered lands by authorized officers and those surface uses acquired by BLM on lands administered by other entities. These BLM authorizations include rights-of-way, leases, permits, conservation easements, and Recreation and Public Purpose leases and patents.

The rights acquired, reserved, or withdrawn by BLM for specified purposes include non-oil and gas leases, conservation easements, archeological easements, road easements, fence easements, and administrative site withdrawals. The existence of such land use authorizations shall not preclude the leasing of the oil and gas. The locations of land use authorizations are noted on the oil and gas plats and in ALMRS/ORCA. The plats are a visual source noting location; ORCA provides location by legal description through the Geographic Cross Reference program.

The specifically authorized acreage for land use should be avoided by oil and gas exploration and development activities. All authorized surface land uses are valid claims to prior existing rights unless the authorization states otherwise.

The right of the Secretary to issue future land use authorizations on an oil and gas lease is reserved by provision of Section 29 of the Mineral Leasing Act, 30 U.S.C. s 186 (1982) {ref.IBLA 88-258, vol.110 pg.89}.

All FLPMA authorizations are subject to valid existing rights {Section 701 (b), FLPMA}.

Land uses are authorized in accordance to the law which applies to that specific use at the time of issuance.

AUTHORITIES:

Federal Land Policy and Management Act (FLPMA), October 21, 1976.

Mineral Leasing Act of 1920, as amended.

Recreation and Public Purpose Act of 1926, as amended.

Pre-FLPMA

Revised Statute 2477

Taylor Grazing Act of 1934

Mining Law of 1872, as amended

Acquired Mineral Leasing Act of August 7, 1947
Executive Orders
Secretarial Orders

Special Management Area

NO LEASE

RESOURCE: Pryor Mountain Wild Horse Range.

MANAGEMENT DECISION: No Lease.

OBJECTIVE: To protect habitat within the boundary of the Pryor Mountain Wild Horse Range that is used by wild horse herds. This area also has primitive recreation values.

CHANGES: This management decision could be changed if the wild horse herd ceases to use this area or if there is a change in the management plan for the wild horse herd.

NOTE: Some lands in the PMWHR are currently in WSA status. This Special Management Area decision will add lands to the WSA lands if wilderness designation is confirmed by an act of Congress.

Special Management Area

NO LEASE

RESOURCE: Ft. Meade Recreation Area.

MANAGEMENT DECISION: No Lease.

OBJECTIVE: To protect the intensive management of the developed recreation areas and structures, the cultural and historical values, wildlife habitat, and scenic values of Fort Meade.

TIMING

RESOURCE: Wildlife - Crucial Winter Range.

STIPULATION: Surface use is prohibited from December 1 to March 31 within crucial winter range for wildlife. This stipulation does not apply to the operation and maintenance of production facilities.

OBJECTIVE: To protect crucial white-tailed deer, mule deer, elk, antelope, moose, bighorn sheep, and sage grouse winter range from disturbance during the winter use season, and to facilitate long-term maintenance of wildlife populations.

EXCEPTION: An exception to this stipulation may be granted by the authorized officer if the operator submits a plan which demonstrates that impacts from the proposed action are acceptable or 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 crucial winter range for wildlife. The dates for the timing restriction may be modified if new wildlife use information indicates that the December 1 to March 31 dates are not valid for the leasehold.

WAIVER: This stipulation may be waived if the authorized officer determines that the entire leasehold no longer contains crucial winter range for wildlife.

TIMING

RESOURCE: Wildlife - Elk Spring Calving Range.

STIPULATION: Surface use is prohibited from April 1 to June 15 within established spring calving range for elk. This stipulation does not apply to the operation and maintenance of production facilities.

OBJECTIVE: To protect elk spring calving range from disturbance during the spring use season, and to facilitate long-term maintenance of wildlife populations.

EXCEPTION: An exception to this stipulation may be granted by the authorized officer if the operator submits a plan which demonstrates that impacts from the proposed action are acceptable or 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 spring calving range for elk. The dates for the timing restriction may be modified if new elk use information indicates that the April 1 to June 15 dates are not valid for the leasehold.

WAIVER: This stipulation may be waived if the authorized officer determines that the entire leasehold no longer contains spring calving range for elk.

Special Management Area

NO SURFACE OCCUPANCY

RESOURCE: Powder River Breaks Bighorn Sheep Range.

STIPULATION: Surface occupancy is prohibited in the designated Bighorn Sheep Range.

OBJECTIVE: To protect the limited area of bighorn sheep habitat in southeastern Montana.

EXCEPTION: An exception to this stipulation may be granted by the authorized officer if the operator submits a plan which demonstrates that impacts from the proposed action are acceptable or 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 Bighorn Sheep habitat.

WAIVER: This stipulation may be waived if the authorized officer determines that the entire leasehold no longer contains bighorn sheep habitat.

NO SURFACE OCCUPANCY

RESOURCE: Wildlife - Grouse Leks.

STIPULATION: Surface occupancy and use is prohibited within 1/4 mile of grouse leks.

OBJECTIVE: To protect sharptail and sage grouse lek sites necessary for the long-term maintenance of grouse populations in the area.

EXCEPTION: An exception to this stipulation may be granted by the authorized officer if the operator submits a plan which demonstrates that impacts from the proposed action are acceptable or 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 grouse lek sites.

WAIVER: This stipulation may be waived if the authorized officer determines that the entire leasehold can be occupied without adversely affecting grouse lek sites, or if all lek sites within 1/4 mile of the leasehold have not been used for 5 consecutive years.

TIMING

RESOURCE: Wildlife - Grouse Nesting Zone.

STIPULATION: Surface use is prohibited from March 1 to June 15 in grouse nesting habitat within 2 miles of a lek. This stipulation does not apply to the operation and maintenance of production facilities.

OBJECTIVE: To protect sharptail and sage grouse nesting habitat from disturbance during spring and early summer in order to maximize annual production of young, and to protect nesting activities adjacent to nesting sites for the long-term maintenance of grouse populations in the area.

EXCEPTION: An exception to this stipulation may be granted by the authorized officer if the operator submits a plan which demonstrates that impacts from the proposed action are acceptable or 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 grouse nesting habitat within 2 miles of a lek. The dates for the timing restriction may be modified if new information indicates that the March 1 to June 15 dates are not valid for the leasehold.

WAIVER: This stipulation may be waived if the authorized officer determines that the entire leasehold no longer contains grouse nesting habitat within 2 miles of a lek.

TIMING

RESOURCE: Wildlife - Raptor Nests.

STIPULATION: Surface use is prohibited from March 1 - August 1, within 1/2 mile of raptor nest sites which have been active within the past 2 years. This stipulation does not apply to the operation and maintenance of production facilities.

OBJECTIVE: To protect nest sites of raptors which have been identified as species of special concern in Montana, North or South Dakota.

EXCEPTION: An exception to this stipulation may be granted by the authorized officer if the operator submits a plan which demonstrates that impacts from the proposed action are acceptable or 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 are within 1/2 mile of raptor nest sites which have been active within the past 2 years. The dates for the timing restrictions may be modified if new information indicates that the March 1 to August 1 dates are not valid for the leasehold.

WAIVER: This stipulation may be waived if the authorized officer determines that the entire leasehold no longer is within 1/2 mile of raptor sites which have been active within the past 2 years.

NO SURFACE OCCUPANCY

RESOURCE: Reservoirs with Fisheries.

STIPULATION: Surface occupancy and use is prohibited within 1/4 mile of designated reservoirs with fisheries.

OBJECTIVE: This stipulation is intended to protect the fisheries and recreational values of reservoirs.

EXCEPTION: An exception to this stipulation may be granted by the authorized officer if the operator submits a plan which demonstrates that impacts from the proposed action are acceptable or 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 the fisheries and recreational values of the reservoir.

WAIVER: This stipulation may be waived if the authorized officer determines that the entire leasehold can be occupied without adversely affecting the fisheries and recreational values of the reservoir.

CONTROLLED SURFACE USE

RESOURCE: Prairie dog towns within potential black-footed ferret reintroduction areas that have been determined to be essential for black-footed ferret recovery.

STIPULATION: The "Draft Guidelines for Oil and Gas Activities in Prairie Dog Ecosystems Managed for Black-footed ferret Recovery" (FWS, 1990) will be used as appropriate to develop site-specific conditions of approval to protect black-footed ferret reintroduction and recovery. Specific conditions of approval will depend on type and duration of proposed activity, proximity to occupied ferret habitat, and other site-specific conditions.

OBJECTIVE: To maintain the integrity of designated black-footed ferret reintroduction area habitat for reintroduction and recovery of black-footed ferrets.

EXCEPTION: May be granted by the authorized officer for activities that are determined, through coordination with the Montana Black-Footed Ferret Coordination Committee (MBFFCC) to have no adverse impacts on reintroduction and recovery of ferrets.

MODIFICATION: The boundaries of the stipulated area may be modified if the authorized officer, in coordination with MBFFCC, determines that portions of the area are no longer essential for ferret reintroduction and recovery.

WAIVER: The stipulation may be waived if the authorized officer, in coordination with the MBFFCC, determines that the entire leasehold no longer contains habitat essential for the reintroduction and recovery of the ferret or if the ferret is removed from protection under the Endangered Species Act.

CONTROLLED SURFACE USE

RESOURCE: Potential black-footed ferret habitat (prairie dog colonies and complexes 80 acres or more in size that are not designated as black-footed ferret reintroduction sites).

STIPULATION: Prior to surface disturbance, prairie dog colonies and complexes 80 acres or more in size will be examined to determine the absence or presence of black-footed ferrets. The findings of this examination may result in some restrictions to the operator's plans or may even preclude use and occupancy that would be in violation of the Endangered Species Act (ESA) of 1973.

The lessee or operator may, at their own option, conduct an examination on the leased lands to determine if black-footed ferrets are present, or if the proposed activity would have an adverse effect, or if the area can be cleared. This examination must be done by or under the supervision of a qualified resource specialist approved by the Surface Management Agency (SMA). An acceptable report must be provided to the SMA documenting the presence or absence of black-footed ferrets and identifying the anticipated effects of the proposed action on the black-footed ferret and its habitat. This stipulation does not apply to the operation and maintenance of production facilities.

OBJECTIVE: To assure compliance with the Endangered Species Act (ESA) by locating and protecting black-footed ferrets and their habitat.

EXCEPTION: An exception may be granted by the authorized officer for surface-disturbing activities determined to have no adverse effect on black-footed ferrets and ferret habitat.

MODIFICATION: The boundaries of the stipulated area may be modified by the authorized officer if portions of the leasehold are cleared based on current and/or past ferret surveys.

WAIVER: This stipulation may be waived if the entire leasehold is block cleared, or permanently cleared based on current and/or past ferret surveys, or if the ferret is declared recovered and no longer subject to the ESA.

NO SURFACE OCCUPANCY

RESOURCE: Wildlife - Bald Eagle Nest Sites and Nesting Habitat.

STIPULATION: Surface occupancy and use is prohibited within 1/2 mile of known bald eagle nest sites which have been active within the past 7 years and within bald eagle nesting habitat in riparian areas.

OBJECTIVE: To protect bald eagle nesting sites and/or nesting habitat in accordance with the Endangered Species Act (ESA) and the Montana Bald Eagle Management Plan.

EXCEPTION: An exception may be granted by the authorized officer if the operator submits a plan which demonstrates that the proposed action will not affect the bald eagle or its habitat. If the authorized officer determines that the action may or will have an adverse effect, the operator may submit a plan demonstrating that the impacts can be adequately mitigated. This plan must be approved by BLM in consultation with the U.S. Fish and Wildlife Service (USFWS).

MODIFICATION: The boundaries of the stipulated area may be modified if the authorized officer, in consultation with USFWS, determines that portions of the area can be occupied without adversely affecting bald eagle nest sites or nesting habitat.

WAIVER: This stipulation may be waived if the authorized officer, in consultation with USFWS, determines that the entire leasehold can be occupied without adversely affecting bald eagle nest sites or nesting habitat, or if the bald eagle is declared recovered and is no longer protected under the ESA.

NO SURFACE OCCUPANCY

RESOURCE: Wildlife - Peregrine Falcon.

STIPULATION: Surface occupancy and use is prohibited within 1 mile of identified peregrine falcon nesting sites.

OBJECTIVE: To protect the habitat of the peregrine falcon, an endangered species under the Endangered Species Act (ESA).

EXCEPTION: An exception may be granted by the authorized officer if the operator submits a plan which demonstrates that the proposed action will not affect the peregrine falcon or its habitat. If the authorized officer determines that the action may or will have an adverse effect, the operator may submit a plan demonstrating that the impacts can be adequately mitigated. This plan must be approved by BLM in consultation with the U.S. Fish and Wildlife Service (USFWS).

MODIFICATION: The boundaries of the stipulated area may be modified if the authorized officer, in consultation with USFWS, determines that portions of the area no longer are critical to the peregrine falcon.

WAIVER: The stipulation may be waived if the authorized officer, in consultation with USFWS, determines that the entire leasehold no longer contains habitat critical to the peregrine falcon, or if the peregrine falcon is declared recovered and is no longer protected under the ESA.

NO SURFACE OCCUPANCY

RESOURCE: Wildlife - Ferruginous Hawk.

STIPULATION: Surface occupancy and use is prohibited within 1/2 mile of known ferruginous hawk nest sites which have been active within the past 2 years.

OBJECTIVE: To maintain the production potential of ferruginous hawk nest sites, which are very sensitive to disturbance and have been identified as Category 2 species under the Endangered Species Act (ESA).

EXCEPTION: An exception to this stipulation may be granted by the authorized officer if the operator submits a plan which demonstrates that the impacts from the proposed action are acceptable or can be adequately mitigated. Seasonal exceptions may be allowed from August 1 through March 1 (the nonbreeding season) if the authorized officer determines that the proposed activity will not disturb the production potential of ferruginous hawk nest sites.

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 the production potential of ferruginous hawk nest sites.

WAIVER: This stipulation may be waived if the authorized officer determines that the entire leasehold can be occupied without adversely affecting the production potential of ferruginous hawk nest sites.

NO SURFACE OCCUPANCY

RESOURCE: Wildlife - Piping Plover.

STIPULATION: Surface occupancy and use is prohibited within 1/4 mile of wetlands identified as piping plover habitat.

OBJECTIVE: To protect the habitat of the piping plover, a threatened species under the Endangered Species Act (ESA).

EXCEPTION: An exception may be granted by the authorized officer if the operator submits a plan which demonstrates that the proposed action will not affect the piping plover or its habitat. If the authorized officer determines that the action may or will have an adverse effect, the operator may submit a plan demonstrating that the impacts can be adequately mitigated. This plan must be approved by BLM in consultation with the U.S. Fish and Wildlife Service (USFWS).

MODIFICATION: The boundaries of the stipulated area may be modified if the authorized officer, in consultation with USFWS, determines that portions of the area are no longer critical to the piping plover.

WAIVER: The stipulation may be waived if the authorized officer, in consultation with USFWS, determines that the entire leasehold no longer contains habitat critical to the piping plover, or if the piping plover is declared recovered and is no longer protected under the ESA.

NO SURFACE OCCUPANCY

RESOURCE : Wildlife - Interior Least Tern.

STIPULATION: Surface occupancy and use is prohibited within 1/4 mile of wetlands identified as interior least tern habitat.

OBJECTIVE: To protect the habitat of the interior least tern, an endangered species under the Endangered Species Act (ESA).

EXCEPTION: An exception may be granted by the authorized officer if the operator submits a plan which demonstrates that the proposed action will not affect the interior least tern or its habitat. If the authorized officer determines that the action may or will have an adverse effect, the operator may submit a plan demonstrating that the impacts can be adequately mitigated. This plan must be approved by BLM in consultation with the U.S. Fish and Wildlife Service (USFWS).

MODIFICATION: The boundaries of the stipulated area may be modified if the authorized officer, in consultation with USFWS, determines that portions of the area are no longer critical to the interior least tern.

WAIVER: The stipulation may be waived if the authorized officer, in consultation with USFWS, determines that the entire leasehold no longer contains habitat critical to the interior least tern, or if the interior least tern is declared recovered and is no longer protected under the ESA.

NO SURFACE OCCUPANCY

RESOURCE: Cultural Resources.

STIPULATION: Surface occupancy and use is prohibited within sites or areas designated for conservation use, public use, or sociocultural use.

OBJECTIVE: To protect those cultural properties identified for conservation use, public use, and sociocultural use (see definitions for use categories within BLM Manual 8111).

EXCEPTION: An exception to this stipulation may be granted by the authorized officer if the lessee or operator submits a plan which demonstrates that the cultural resource values which formed the basis for designation are not affected, or if adverse impacts are acceptable or can be adequately mitigated.

MODIFICATION: The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the designated site or area can be occupied without adversely affecting the cultural resource values for which the site or area was designated.

WAIVER: This stipulation may be waived if the authorized officer determines that all designated sites or areas within the leasehold can be occupied without adversely affecting the cultural resource values for which such sites or areas were designated, or if all designated sites or areas within the leasehold are allocated for other uses.

NOTE: Compliance with Section 106 of the National Historic Preservation Act is required for all actions which may affect cultural properties eligible to the National Register of Historic Places.

LEASE NOTICE

CULTURAL RESOURCES: The Surface Management Agency is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures. Guidance for application of this requirement can be found in NTL-MSO-85-1.

OBJECTIVE: This Notice would be consistent with the present Montana guidance for cultural resource protection related to oil and gas operations (NTL-MSO-85-1).

NO SURFACE OCCUPANCY

RESOURCE: Paleontological Resources.

STIPULATION: Surface occupancy and use is prohibited within designated paleontological sites.

OBJECTIVE: To protect significant paleontological sites.

EXCEPTION: An exception to this stipulation may be granted by the authorized officer if the lessee or operator submits a plan which demonstrates that the paleontological resource values which formed the basis for designation are not affected, or if adverse impacts are acceptable or can be adequately mitigated.

MODIFICATION: The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the designated site can be occupied without adversely affecting the paleontological resource values for which the site was designated, or if the boundaries of the designated site are changed.

WAIVER: This stipulation may be waived if the authorized officer determines that all designated sites within the leasehold can be occupied without adversely affecting the paleontological resource values for which the sites were designated, or if all designated sites within the leasehold are allocated for other uses.

NO SURFACE OCCUPANCY

RESOURCE: Recreation.

STIPULATION: Surface occupancy and use is prohibited within developed recreation areas and undeveloped recreation areas receiving concentrated public use.

OBJECTIVE: To protect developed recreation areas and undeveloped recreation areas receiving concentrated public use.

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 are acceptable or can be adequately mitigated.

MODIFICATION: The boundaries of the stipulated area may be modified by the authorized officer if the recreation area boundaries are changed.

WAIVER: This stipulation may be waived if the authorized officer determines that the entire leasehold no longer contains developed recreation areas or undeveloped recreation areas receiving concentrated public use.

CONTROLLED SURFACE USE

RESOURCE: Visual Resource Management (VRM) Class II.

STIPULATION: All surface-disturbing activities, semipermanent and permanent facilities in VRM Class II, areas may require special design, including location, painting, and camouflage, to blend with the natural surroundings and meet the visual quality objectives for the area.

OBJECTIVE: To control the visual impacts of activities and facilities within acceptable levels.

EXCEPTION: None.

MODIFICATION: None.

WAIVER: None.

NOTE: This stipulation will not prevent surface access. There are no Waivers, Exceptions, or Modifications because a land use plan amendment would be needed to change the classification of lands. In order to maintain the visual qualities of Class II lands, the operations plan for the well must meet the objectives for that class.

GEOPHYSICAL MANAGEMENT

Notification Process

Geophysical operations on public lands are approved by the Federal Surface Management Agency (SMA). An oil and gas lease is not required before geophysical operations are conducted. Exploration on BLM-administered public lands requires review and approval following the procedures in the Code of Federal Regulations at 43 CFR 3150 and 3151 (1990). In the Miles City District, the Area Manager is authorized to act for the District Manager to approve geophysical operations. The responsibilities of the geophysical operator and the BLM Area Manager during geophysical operations are described below.

1. **Geophysical Operator** - The operator is required to file Form 3150-4, "Notice of Intent to Conduct Oil and Gas Geophysical Exploration Operations" (NOI), for all operations on public surface administered by the BLM. The NOI includes the "Terms and Conditions for Notice of Intent To Conduct Geophysical Exploration," Form 3150-4a (Illustration A-1). Maps showing the location of the proposed lines and all access routes must accompany the Form 3150-4.

When the Notice of Intent is filed, the Authorized Officer (AO) may request a prework conference or field inspection. Any special requirements or procedures that are identified by the AO are included in the "Terms and Conditions". By signing the NOI and "Terms and Conditions", the operator agrees to comply with requirements specified by the AO. The Notice of Intent, maps, and a signed copy of "Terms and Conditions" must be filed in the BLM Resource Area Office before operations begin.

Bonding of the operator also is required. A copy of proof of satisfactory bonding shall accompany the Notice of Intent (NOI). Proper bonding may include a nationwide or statewide oil and gas bond with a rider for geophysical exploration or a \$5,000 individual surety bond filed with the Authorized Officer.

Surface disturbing activities, such as bulldozing, require written approval by the AO. The operator is required to comply with all applicable Federal, state, and local laws such as the Federal Land Policy and Management Act of 1976, the National Historic Preservation Act of 1966, as amended, and the Endangered Species Act of 1973, as amended. Operators may be required to submit an archeological survey if dirt work is contemplated or if there is reason to believe that significant cultural resources may be adversely affected.

Any changes in the original NOI must be submitted in writing to the AO. Written approval must be secured before activities proceed.

When operations are completed, the operator is required to file the form "Notice of Completion of Oil and Gas Geophysical Exploration", Form 3150-5, which includes a statement certifying compliance with terms and conditions of the NOI and a map (preferably 1:24,000 scale topographic map) showing actual line and shothole locations or other details of the survey.

2. BLM Area Managers - The AO is required to contact the operator within 5 working days after the filing of the Notice of Intent to explain the terms of the Notice, including the "Terms and Conditions", all current laws, and all BLM administrative requirements. At the time of the prework conference or field inspection, written instructions or orders are given to the operator. The AO is responsible for the examination of resource values to determine appropriate surface protection and reclamation measures.

The AO is required to make a final inspection following filing of the Notice of Completion. When reclamation is approved, obligation against the operator's bond is released. The BLM has 30 days after the filing of the Notice of Completion to notify the operator whether the reclamation work is satisfactory or if additional reclamation is necessary. Bonding liability will automatically terminate unless the AO notifies the operator of the need for additional reclamation work within 90 days of the filing of the Notice of Completion.

State Standards

In Montana, geophysical operators register with the state through the County Clerk and Recorder's Office. There are requirements for shothole locations and plugging and abandonment procedures. Operators in South Dakota follow procedures set forth by BLM.

Mitigation

When a geophysical NOI is received, restrictions may be placed on the application to protect resource values or mitigate impacts to them. Some of these requirements may be the same as oil and gas lease stipulations (Appendix B). Other less restrictive measures may be used when impacts to resource values will be less severe. This is due in part to the temporary nature of geophysical exploration. The decisions concerning the level of protection required are made on a case-by-case basis when an NOI is received.

CONDITIONS OF APPROVAL

Applications for Permit to Drill are approved for the Miles City District by the Assistant District Manager, Division of Mineral Resources. The approval letter includes the Conditions of Approval which the operator must follow from site construction through abandonment. Also, the approval letter contains informational notices which cite the regulatory requirements from the Code of Federal Regulations, Onshore Operating Orders and other guidance.

Conditions Of Approval

1. Site Specific COAs are based on analysis of the proposed location for the well. They include the following:
 - A. Drilling Plan
 - B. Access Road
 - C. Production Facilities
 - D. Water Supply
 - E. Waste Disposal
 - F. Well-site Layout
 - G. Surface Restoration
 2. Verbal Notifications (made to the BLM, MCDO 406-232-4331, or after business hours to the appropriate individual's home phone shown on the list attached).
 - A. Notify this office verbally at least 48 hours prior to beginning construction.
 - B. Notify this office verbally at least 12 hours prior to spudding the well. (To be followed up in writing within 5 days.)
 - C. Notify this office verbally at least 12 hours prior to running any casing or BOP tests. (To be followed up in writing within 5 days.)
 - D. Notify this office verbally at least 24 hours prior to plugging the well to receive verbal plugging orders. (Refer to Informational Notice Item 2 for additional abandonment instructions.)
 - E. Notify this office verbally at least 24 hours prior to removal of fluids from the reserve pit.
 - F. Failure to comply within specified notification timeframes may incur an assessment under 43 CFR 3163.1 and may also incur civil penalties under 43 CFR 3163.2.
 3. A complete copy of the approved Application for Permit to Drill (APD), including conditions, stipulations, and the H2S contingency plan (if required) shall be available for reference at the well site during the construction and drilling phases.
 4. This drilling permit is valid for either 1 year from the approval date or until lease expiration, whichever occurs first.
 5. Construction of access roads and well pads, and installation of cattleguards, culverts, fences, and other structures shall be in accordance with the BLM/FS brochure entitled "Surface Operating Standards for Oil and Gas Exploration and Development" (1989) which is available for reference in this office.
 6. The operator is responsible for informing all persons in the area who are associated with this project that they will be subject to prosecution for knowingly disturbing historic or archaeological sites, or for collecting artifacts. If historic or archaeological materials are uncovered during construction, the operator is to immediately stop work that might further disturb such materials, and contact the authorized officer (AO). Within five working days the AO will inform the operator as to:
 - whether the materials appear eligible for the National Register of Historic Places;
 - the mitigation measures the operator will likely have to undertake before the site can be used (assuming in site preservation is not necessary); and,
 - a timeframe for the AO to complete an expedited review under 36 CFR 800.11 to confirm, through the State Historic Preservation Officer, that the findings of the AO are correct and that mitigation is appropriate.
- If the operator wishes, at any time, to relocate activities to avoid the expense of mitigation and/or the delays associated with this process, the AO will assume responsibility for whatever recordation and stabilization of the exposed materials may be required. Otherwise, the operator will be responsible for mitigation costs. The AO will provide technical and procedural guidelines for the conduct of mitigation. Upon verification from the AO that the required mitigation has been completed, the operator will then be allowed to resume construction.
7. It is the responsibility of the operator to control noxious weeds on lands disturbed in association with oil and gas lease operations. Lease-associated weed control strategies, when required by the Bureau of Land Management (BLM), are to be coordinated with any involved surface owners and local weed control boards. A

pesticide-use proposal must be prepared, and reviewed and approved by the BLM, prior to any herbicide application on lands disturbed by federal oil and gas lease operations. A pesticide application record must be completed within 24 hours after completion of application of herbicides.

8. The abandonment marker shall exhibit the same information required for the well sign (Refer to Informational Notice Item 6). The abandonment marker identified below must be installed when the well is plugged.

- _____ A steel pipe (minimum 4" diameter, capped, minimum 4' above ground) set in cement.
- _____ A steel plate welded to surface casing at the recontoured ground level.
- _____ A steel plate welded to surface casing ___ below ground level.

9. Additional requirements may be imposed if changes in operational and/or environmental conditions dictate.

10. These Conditions of Approval are subject to the State Director Review (SDR) and appeals provisions of 43 CFR 3165.3 and 3165.4.

Informational Notice

The following items are from the Federal Oil and Gas regulations (43 CFR 3160, Onshore Orders Nos. 1 and 2, Notices to Lessees, and other guidance). This is not a complete list of requirements, but is an abstract of some major requirements.

1. General Requirements

- a. The lessee or designated operator shall comply with applicable laws and regulations; with the lease terms, Onshore Oil and Gas Orders, NTLs; and with other orders and instructions of the Authorized Officer. Any deviation from the terms of the approved APD requires prior approval from BLM (43 CFR 3162.1(a)).
- b. If at any time the facilities located on public lands authorized by the terms of the lease are no longer included in the lease (due to a contraction in the unit or other lease or unit boundary change), the BLM will process a change in authorization to the appropriate statute. The authorization will be subject to appropriate rental or other financial obligations determined by the Authorized Officer.

2. Drilling Operations (Onshore Order No. 2)

- a. Onshore Order No. 2 requires surface casing shall have centralizers on at least every fourth joint starting with the shoe joint.
- b. If DSTs are run, the Miles City District Office shall be notified at least 6 hours prior to testing. All applicable safety precautions outlined in Onshore Order No. 2 shall be observed.
- c. All indications of usable water (10,000 ppm or less TDS) shall be reported to Miles City District Office prior to running the next string of casing or before plugging orders are requested, whichever occurs first.

3. Well Abandonment (43 CFR 3162.3-4, Onshore Order No. 1-Sec. V)

Approval for abandonment shall be obtained prior to beginning plugging operations. Initial approval for plugging operations may be verbal, but shall be followed up in writing within 30 days. Subsequent and final abandonment notifications are required and shall be submitted on Sundry Notices and Reports on Wells, Form 3160.5, in triplicate.

4. Reports and Notifications (43 CFR 3162.4-1, 3162.4-3)

- a. Within 30 days of completion of the well as a dry hole or producer, a copy of all logs, core descriptions, core analyses, well-test data, geologic summaries, sample descriptions or data obtained and compiled during the drilling, workover, and/or completion operations shall be filed with Well Completion or Recompletion Report and Log, Form 3160-4, in duplicate.
- b. In accordance with 43 CFR 3162.4-3 this well shall be reported on MMS Form 3160, "Monthly Report of Operations", starting with the month in which any operations commence, including drilling, and continuing each month until the well is physically plugged and abandoned.
- c. Notify this office within 5 business days of production start-up if either of the following two conditions occur:
 - (1) The well is placed on production.
 - (2) The well resumes production after being off production for more than 90 days.

"Placed on production" means shipment or sales of hydrocarbons from temporary tanks, production into permanent facilities or measurement through permanent facilities.

Notification may be written or verbal with written follow-up within 15 days, and must include the following information:

- (1) Operator name, address, and telephone number.
- (2) Well name and number, county and state.
- (3) Well location, "1/4-1/4, Section, Township, Range, P.M."
- (4) Date well begins or resumes production.
- (5) The nature of the well's production; that is, crude oil, or crude oil casing gas, or natural gas and entrained liquid hydrocarbons.
- (6) The Federal or Indian lease number.
- (7) As appropriate, the Unit Agreement name, number and Participating Area name.
- (8) As appropriate, the Communitization Agreement number.

5. Environmental Obligations and Disposition of Production (43 CFR 3162.5-1, 3162.7-1 and 40 CFR 302.4)

- a. With BLM approval, water produced from newly completed wells may be temporarily disposed of into unlined pits up to 90 days. During this initial period, application for the permanent disposal method shall be made to this office in accordance with NTL-2B. If underground injection is proposed, an EPA or State Permit shall also be obtained.
- b. Spills, accidents, fires, injuries, blowouts and other undesirable events must be reported to this office within the timeframes in NTL-3A.
- c. Gas may be vented or flared during emergencies, well evaluation, or initial production tests for a time period of up to 30 days or the production of 50 MMCF of gas, whichever occurs first. After this period, approval from this office shall be obtained to flare or vent gas in accordance with NTL-4A.

6. Well Identification (43 CFR 3162.6)

Each drilling, producing, or abandoned well shall be identified with the operator's name, the lease serial number, the well number, and the surveyed description of the well (either footages or the quarter-quarter section, the section, township and range). The Indian allottee lessor's name may also be required. All markings shall be legible, and in a conspicuous place.

7. Site Security (43 CFR 3162.7.5)

- a. Oil storage facilities shall be clearly identified with a sign, and tanks must be individually identified (43 CFR 3162.6 (c)).
- b. Site security plans shall be completed within 60 days of production startup (43 CFR 3162.7-5(c)).
- c. Site facility diagrams shall be filed in this office within 60 days after facilities are installed or modified (43 CFR 3162.7-5(d)(1)).

8. Confidentiality (43 CFR 3162.8)

All submitted information not marked "CONFIDENTIAL INFORMATION" will be available for public inspection upon request.