



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

Montana State Office

5001 Southgate Drive

Billings, Montana 59101-4669

<http://www.blm.gov/mt>

In Reply To:

3100 (922.JB)

CERTIFIED-RETURN RECEIPT REQUESTED

May 30, 2007

DECISION

Mr. Michael Gibson
Conservation Director
Montana Trout Unlimited
P.O. Box 7186
Missoula, Montana 59807-7186

**Protest Dismissed
Except Visual Concerns
Additional Visual Lease Stipulations to be Added
To Future Leases**

On March 12, 2007, we received your protest filed on behalf of Trout Unlimited (Enclosure 1). You protested the March 27, 2007, competitive oil and gas lease sale of the following parcels:

MT-03-07-07 through MT-03-07-48

Parcels MT-03-07-20 through MT-03-07-25 and MT-03-07-48 are lands administered by the Forest Service. The other parcels are administered by the BLM.

You note two main reasons for the protest. The first is that sale of the parcels within the Beaverhead River watershed and corridor and its tributaries (parcels MT-03-07 through MT-03-07-19 and MT-02-07-26 through MT-03-07-47) will damage habitat and impair the fishery in what is regarded as one of Montana's premier Blue Ribbon trout streams. The second is that you protest the inclusion of parcels MT-03-07-20 through MT-03-07-25 and parcel MT-03-07-48. These parcels lie within the boundaries of the Beaverhead-Deerlodge National Forest (NF) and the lands are administered by the Forest Service. Your protest is based on the fact that these parcels contain westslope cutthroat trout drainages and important big game habitat. You suggest that it is inappropriate to lease these lands based on the existing Environment Impact Statement (EIS) without analyzing new and updated significant information, providing for public comment, and considering a range of alternatives.

General Concerns that were raised in the Protest

1. Failure to Accurately Depict the Location of Leases:

Protest: You have made comments at this point concerning access to maps to determine where individual lease parcels are located. You believe that the BLM is in violation of the Federal Onshore Oil and Gas Leasing Reform Act of 1987 where it states that a lease sale notice shall include:

"...the terms or modified lease terms and maps or a narrative description of the affected lands. Where the inclusion of maps in such notice is not practicable, maps of the affected lands shall be made available to the public for review. Such maps shall show the location of all tracts to be leased, and of all leases already issued in the general area." 30 U.S.C. § 226(f)

Response: The sale notice for the March sale included a narrative description of all parcels with the legal descriptions for each parcel. All parcels are listed by state, county and township and range. The township and range legal description is recognized by law as to the definite location of a tract of land (Enclosure 2). In addition, each parcel has cross references to all the stipulations that apply to the parcel.

If requested, we also assist the public with information on where parcels on a sale notice are located by providing maps and access to ownership plats at our offices. These maps include surface and mineral management status maps, title plats, and oil and gas field maps. The internet sites listed on our sale notice are sites that can be used to identify surface owners. These actions meet the requirements of the Federal Onshore Oil and Gas Leasing Reform Act of 1987. Beginning with our May 30, 2007, Sale Notice, we are publishing a map showing parcel locations.

2. Changed Circumstances and a Lack of Public Comment Opportunity:

Protest: Your protest alleges that the Dillon Resource Management Plan (RMP) provides only a general analysis and leasing decision and that the identification of site-specific parcels for the lease sale notice represents changed circumstances that need to be analyzed in a supplement to that RMP. You also allege that Documentations of Land Use Plan Conformance and NEPA Adequacy (DNAs) do not fulfill NEPA's supplemental analysis requirement. Finally, you state that DNAs are not themselves documents that may be tiered to the National Environmental Policy Act (NEPA), but used to determine the sufficiency of previous issued NEPA documents.

Response: The Record of Decision (ROD) and the Dillon RMP were approved on February 7, 2006. As part of our planning process used to prepare the RMP, specific areas within the two county planning area (Beaverhead and Madison Counties) were identified that would either be opened or closed to leasing subject to the following levels of constraints:

- Areas opened to leasing, subject to existing laws, regulations, and formal orders; and the terms and conditions of the standard lease form.
- Areas opened to leasing, subject to moderate constraints such as seasonal and controlled surface use restrictions.
- Areas open to leasing subject to major constraints such as no-surface-occupancy stipulations on area more than 40 acres in size or more than 0.25 mile in width.

- Areas closed to leasing.

These areas are mapped and displayed in the ROD for the RMP on Map 21.

As part of the planning process, BLM geologists also identified four areas where we believed that there was the highest reasonably foreseeable chance for oil or natural gas production in the planning area. These are mapped in the Draft RMP on Map 83. They are described in the Draft RMP in Appendix H on pages 95 through 97. The same information is found in the Proposed RMP in Appendix H on pages 85 through 87. The parcels offered for lease in Beaverhead County on the protested lease sale are within these four areas.

The Proposed RMP also identified the fact that there were existing leases within the planning area and suspended nominations that would be available when the plan was completed (page 224). At the end of 2001, when the reasonably foreseeable development (RFD) scenario was finalized, there were 12,611.68 acres under Federal lease in the planning area. In March 2002, there were 36 suspended nominated lease parcels covering 34,023.37 acres in Madison and Beaverhead Counties. These parcels were available for lease after the ROD for the RMP was issued.

Because of our open and public process for preparation of the RMP, the public was made aware of lands that were available for lease and what terms would apply if any lands were offered for lease. Opportunity for public involvement and comment on the leasing decisions was offered by the BLM during preparation of the RMP. These opportunities are documented in Chapter 5 of the Proposed RMP. In addition, Chapter 5 also lists Montana Trout Unlimited as an organization that commented on the Draft RMP. The organization also received a printed copy of the Proposed RMP.

As noted earlier, the Dillon RMP was approved on February 7, 2006. Adoption of the RMP in 2006 resulted in initiation of a review of the pending nominations. The Dillon Field Office reviewed the RMP to determine leasing availability and appropriate stipulations for each parcel. The Dillon Field Office, following their review of the leasing decisions in the RMP as well as any new circumstances, completed a DNA. The DNA is completed by Field Offices to confirm their review of leasing requests and constitutes notification of either a lease or no lease decision, dependent upon the results of the review by the Field Office as a final check to ensure that the planning and NEPA analysis from that RMP was still adequate for leasing. They are not to be considered NEPA documents. However, they represent a decision by the BLM that there are no changed circumstances which would warrant further NEPA analysis. Based on review by the Dillon Field Office, they provided DNAs for the offered parcels documenting their review and determination to offer lands for leasing with appropriate stipulations provided in the final Record of Decision for the Dillon RMP.

3. Inadequate NEPA Analysis on Forest Service Lands:

- a.) **Protest:** Your protest questions the age of Beaverhead NF's leasing EIS and the adequacy of information.

"The Forest Service lease parcels being offered (MT-03-07-20 through MT-03-07-25; and MT-03-07-48) have a leasing

decision based upon the 1995 Final EIS for Oil and Gas Leasing on the Beaverhead NF 1995 EIS. The information and data contained in the EIS and the opportunity for public comment is over 12 years old."

Also, you questioned whether there is "significant new information relevant to environmental concerns" and "an agency must prepare a Supplemental EIS if the new information is sufficient to show that the remaining action will affect the environment in a significant manner..."

Response:

It is correct that the Forest Service lease parcels being offered (MT-03-07-20 through MT-03-07-25 and MT-03-07-48) have leasing decisions based on the 1995 Final EIS for Oil and Gas Leasing on the Beaverhead NF (1995 EIS). As part of pre-sale review, the Forest Service verifies that the leasing of the specific lands has been adequately addressed in a NEPA document. The Beaverhead NF updated the resource information for the various stipulations with the latest survey information including Westslope cutthroat trout surveys. Forest Service specialists also review their area of expertise to see if there is significant new information that would require possible analysis in a supplemental NEPA document. No new significant issues were identified for the FS parcels on the March sale. The Forest Service review verified that leasing with appropriate stipulations was adequately addressed in 1996 decision.

Also, as part of the Forest Plan revision, the public has been asked about changes needed on the Beaverhead-Deerlodge NF. In December 2002, the Draft Analysis of Management Situation (AMS) and in August, 2003 the Proposed Action noted that:

"Oil and Gas Leasing Amendments will be updated in conjunction with the plan revision effort to reflect new direction in the revised Forest Plan." (Draft AMS page 65)

Comments received from individuals and groups, including Montana Trout Unlimited, concerning oil and gas or with the Beaverhead's proposal for updating the oil and gas decision did not indicate that there was significant new information or issues beyond the scope of issues addressed in the 1995 FEIS.

b.) Protest: This part of your protest is found in the second paragraph on page 3:

"Many changes have occurred since the development of that EIS. This is expressed in the Draft EIS for the Beaverhead-Deerlodge Revised Forest Plan, which discussed the increased potential for oil and gas development in the Beaverhead-Deerlodge based on high energy prices: 'With the current all time high in oil and gas prices, we may see a renewed interest in leasing on the Forest. Certainly, any discovery in southwest Montana, whether on public or private land, would result in more leases and likely Applications for Permits to Drill (APDs)' (DEIS Chapter 3,391). The 1995 EIS analysis and

the stipulations derived from it are based upon the economic reality and reasonable foreseeable development scenario from 1995, when energy prices were substantially lower than they are today."

Response: The quote from the Draft EIS for the Beaverhead-Deerlodge Draft Revised Land and Resource Management Plan (Draft Forest Plan) included above is correct. But the 1995 EIS (Summary, page 2 and Appendix B, page 1) and the Beaverhead-Deerlodge Draft Revised Forest Plan (DEIS Chapter 3, page 390) pointed out that the economics of oil and gas development are highly variable. The RFD scenario for that 1995 EIS took into account information from the 1970s and early 1980s, a period of high oil prices, when over 1,000,000 acres were leased on the Beaverhead (O&G FEIS Appendix B). The RFD also considered a period of lower oil prices in the early 1990s, under the FS RFD scenario for the 1995 EIS, the assumption was there would be 10 wildcat and four development wells drilled over a 15-year period. For much of that time, oil and gas prices have been low, and the interest in leasing on the BDNF dropped after an initial spurt of leasing activity in the Lima-Tendoy area. No wells have been drilled on the Beaverhead NF since 1986. Now that oil prices are higher, the development predicted in the RFD may be more likely. While a few wells may be reasonably foreseeable, neither the RFD scenario nor the Beaverhead-Deerlodge Proposed Plan rank any part of the Beaverhead as high oil and gas potential. Lands are categorized as very low, low and moderate potential for oil and gas occurrence (O&G FEIS Appendix B-figure 9 and DEIS Chapter 3, figure 70 page 394). The existing RFD scenario is still valid.

The BLM has seen a minor increase in leasing on both BLM and Forest Service lands in Beaverhead County since the ROD for the Dillon RMP was approved which allowed suspended BLM parcels to be offered for lease. Only part of the lands in the Dillon RMP that were offered for competitive leasing received a bid at the sale or a noncompetitive offer the day following the sale. The minimum bid of \$2 per acre and lack of competitive bids at the sale for the offered parcels is a reflection that this is not a high interest development area. Leasing is often speculative and not reflective of actual proposed operations on Federal lands. There has not been an oil or gas discovery in Madison or Beaverhead Counties according to existing records. The last well drilled in the area was completed as a dry hole in 1996.

The BLM prepared a RFD scenario for the Dillon RMP which covers both Madison and Beaverhead Counties, the same area covered by the 1995 EIS. This RFD scenario forecast a total of six wildcat wells for both counties over the life of the plan. Currently there are no producing oil and gas wells in either county. A total of 13 dry holes have been drilled since 1980 (Dillon Proposed RMP, page 224, oil and gas section). Based the RFD scenario, the BLM also forecast a low level of development and production activity.

You have provided no evidence to indicate that there is any economic reality surrounding oil and gas development in Beaverhead County that has changed significantly since the 1995 EIS was completed. We believe that it has changed very little and that there is no changed circumstance to show that supplemental NEPA analysis or a revised RFD scenario is required.

c.) **Protest:** The BLM has not taken the required hard look at the environmental consequences of leasing lands in the area.

Response: The BLM was a joint lead agency on the 1995 Final EIS for Oil and Gas Leasing on the Beaverhead NF. The BLM's decision relative to leasing the Beaverhead lands is included with the Forest Service decision in the 1996 Beaverhead NF Oil and Gas Leasing ROD. The BLM participated with the Forest Service to prepare the Leasing EIS. The BLM uses the Forest Service validation and verification work to ensure that any updates to information and or significant changes are identified.

Resource Specific Concerns

1.) Westslope Cutthroat Trout Conservation:

a.) **Protest:** The protest states that:

"...the Beaverhead-Deerlodge NF, currently in the final stages of its Forest management plan revision, has determined in their preferred plan alternative that entire watersheds containing westslope cutthroat steams should be under NSO stipulations for oil and gas leasing. This is marked increase in protection over the stipulations specified in the 1995 FEIS under which these leases are being offered. Given that the Beaverhead-Deerlodge NF is in the final stages of its revision process and that as part of that analysis the Forest is looking at the 1995 stipulations to determine if they we still sufficient for resource protection, it makes sense to hold off on leasing on the Forest until the completion of the revision process and the subsequent ROD.

If leases are issued before the forest plan revision is complete, a supplemental analysis to the 1995 EIS specifically addressing the management direction for watersheds and Westslope cutthroat trout must be undertaken as required by NEPA's supplemental analysis requirement 40 C.F.R. § 1502.9(c)."

Response: The 1996 Forest Service decision protected westslope cutthroat trout (WCT) using a mixture of CSU and NSO stipulations applied for protection of drainages inhabited by westslope cutthroat trout (O&G FEIS Appendix J). The proposed plan and draft EIS would require similar NSO and CSU restrictions for westslope cutthroat trout. While the language in the proposed stipulations has been modified, the DEIS summarizes the effects analysis. It reads:

"The stipulations listed below represent our efforts to translate the management direction in the Oil and Gas decision into alternatives 2, 3, 4, and 5 in this DEIS. We believe, this translation of these stipulations are consistent with the original findings and do not change the accuracy of the effects analysis in that Oil and Gas document." (Proposed Plan DEIS page 220 and 221)

The decision to maintain a similar level of protection for WCT in the revised plan and the inclusion of recent fish survey data during the parcel validation and verification has negated the need for a supplemental EIS.

b.) Protest: The protest also states:

"...for BLM parcels affecting westslope cutthroat trout watersheds, TU is concerned that surface occupancy will be allowed on slopes over 30 percent. Any road building or pad construction on these lands will likely necessitate cut and fill slopes, destabilizing the slopes and resulting in reclamation difficulty and landslides hazards. Because of the potential for water quality degradation that this presents, TU recommends that these leases only be offered with an NSO stipulation for slope over 30 percent."

Response: The protest requests that parcels with slopes over 30 percent have an NSO stipulation applied for BLM parcels affecting westslope cutthroat trout watersheds.

Our analysis in the Dillon RMP indicated that the following CSU stipulation that was selected for the lands in the Dillon RMP planning area is adequate to protect steep slopes where drilling might cause damage to habitat:

"Resource: Slopes >30%

Stipulation: Controlled Surface Use. Prior to surface disturbance on slopes greater than 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 soil erosion.
- Surface disturbing activities will not be conducted during extended wet periods

Objective: To maintain soil productivity and provide necessary protection to prevent excessive soil erosion on steep slopes."

In addition, it was recognized that there are areas of mass wasting (areas prone to landslides) in Beaverhead and Madison Counties that might affect westslope cutthroat trout habitat. The following NSO stipulation is applied to such areas:

"Resource: Active Mass Movement Areas

Stipulation: No Surface Occupancy. Use and occupancy is prohibited on areas of active mass movement (land-slides).

Objectives: To prevent potential damage to pipelines, well heads, and other facilities from landslides in areas of active mass movement."

These two stipulations were applied to parcels on the March sale list where BLM analysis indicated there were areas of slopes over 30 percent or there were areas of mass wasting:

Parcels MT-03-07-07 through MT-03-07-19, MT-03-07-26 through MT-03-07-47, MT-03-07-49, and MT-03-07-52.

The BLM RMP analysis determined that steep slopes and drainages adjacent to the Beaverhead River are adequately protected by the use of these two stipulations and your protest does not provide any new information to support an alternative to the stipulations in the ROD for the Dillon RMP. The BLM does not believe that further stipulations are needed. On slopes less than 30 percent or areas without mass movement potential impacts can be mitigated with conditions of approval/best management practices at the APD stage.

2.) Inadequate Hydrological Analysis:

Protest: Your protest says:

"In neither the Dillon RMP nor 1995 Beaverhead Oil and Gas Leasing EIS was the problem of the interception of upper water table aquifer flow into Clark Canyon Reservoir, Little Sheep Creek, Grasshopper Creek, or any tributaries adequately analyzed. Nor do the underlying leasing decisions or the outdated EIS address the potential for the transport of contaminants through a base flow from the aquifer to the surface water (should a well blow oil or become over pressured). Impacts to the freshwater aquifer and hydrology should be fully analyzed and understood before these areas are offered for lease and committed to some level of oil and gas extraction."

Response: These concerns are addressed in Appendix H of the Proposed RMP that describes procedures used by the BLM to permit oil and gas activities on BLM lands. They are also addressed in Appendix C of the Forest Service 1995 FEIS. Specific concerns expressed at this point would be addressed when permitting drilling through the application for permit to drill (APD) process. All APDs include requirements to mitigate such concerns. A short description of these requirements follows.

Specifically, if a reserve pit is required on a drilling location to hold drill cuttings and used drilling fluids, it is usually excavated in "cut" material on the well pad. The BLM may require that such pits be lined to contain the contents and reduce seepage. This is normally required based upon factors such as soils, pit locations, ground water, and drilling mud constituents. In cases where reserve pits are not used, closed systems are used to hold drill cuttings and drilling fluids.

As drilling progresses for a vertical well, the hole is drilled and pipe is placed in the hole to maintain the integrity of the hole. The first string of pipe is the conductor pipe, which stabilizes the hole near the surface. The second string of pipe placed in the hole is for surface casing, which is set deep enough to reach a competent zone below the deepest usable freshwater aquifer.

The surface casing is set and cemented in the hole by pumping cement between the casing and the well bore wall. Surface casing acts as a safety device to protect freshwater zones from drilling fluid contamination. To prevent the well from "blowing-out" in the event the drill bit hits a high-pressure zone, blowout preventers are mounted on top of the surface casing. If high-pressure zones are encountered that cannot be controlled with mud additives, the blowout preventers can be closed to effectively seal the well.

After the surface casing is set, a smaller drill bit that fits inside the surface casing is installed and drilling resumes. Depending on well conditions, additional strings of casing called intermediate casing may be installed and cemented into place. Conditions resulting in the need for intermediate casing include freshwater zones and sloughing formation zones. Casing prevents the flow of freshwater into the wellbore, and conversely prevents drilling fluids from infiltrating porous formations with low internal pressures. Casing also prevents mixing of waters from different formations (interformational mixing) where water within the formations is of differing quality.

If no oil or gas is encountered, the well is plugged with cement and abandoned in accordance with state and federal requirements. If the well is a producer, casing is set and cemented in place.

All cementing operation plans are reviewed to assure cement is placed at the appropriate depths and a sufficient quantity is utilized to effectively seal all freshwater-bearing formations from contamination by interformational mixing or migration of fluids.

3.) Inadequate Stipulations Protecting Steep Slopes:

Protest: The protest requests that a NSO stipulation be added to all parcels with slopes over 30 percent. The justification for this recommendation is the statement that the existing CSU stipulation is not adequate to ensure successful reclamation. The protest also says that a CSU stipulation would not preclude development and therefore would not minimize sediment output or maintain slope stability as well as an NSO stipulation.

Response: Our analysis in the Dillon RMP indicated that the following CSU stipulation that was selected is adequate to protect steep slopes:

"Prior to surface disturbance on slopes greater than 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 soil erosion.
- Surface disturbing activities will not be conducted during extended wet periods"

In addition, it was recognized that there are areas of mass wasting (areas prone to landslides) in Beaverhead and Madison Counties. The following NSO stipulation is applied to such areas:

"Use and occupancy is prohibited on areas of active mass movement (landslides)."

These two stipulations were applied to protested parcels where BLM analysis indicated there were areas of slopes over 30 percent or there were areas of mass wasting:

Parcels MT-03-07-07 through MT-03-07-19, MT-03-07-26 through MT-03-07-47, MT-03-07-49, and MT-03-07-52.

The BLM RMP analysis determined that steep slopes and areas of mass wasting are adequately protected by the use of these two stipulations and your protest does not provide any new information to support an alternative to the stipulations in the ROD for the Dillon RMP. The BLM does not believe that further stipulations are needed. On slopes less than 30 percent or areas without mass movement potential impacts can be mitigated with conditions of approval/best management practices at the APD stage.

Forest Service recognizes that some soils and areas are difficult to reclaim. They utilize a NSO stipulation for areas of mass failure and areas with slopes greater than 35 percent which have soils prone to failure (O&G Leasing FEIS Appendix G).

These stipulations were applied to parcels MT-03-07-20 through MT-03-07-25 and MT-03-07-48.

4.) Maintain Quality of Experience:

Protest: The protest suggests that before oil and gas leases are offered in the Dillon Field Office, particularly along the Beaverhead River, it is imperative that sufficient analysis is conducted on the impacts to the quality of the experience and what the potential loss of a destination fishery will mean to the local businesses that depend upon a healthy watershed and visual integrity that makes for high quality angling experiences.

Response: At page 261 in the Proposed RMP, there is a discussion of the importance of the importance of fishing to Madison and Beaverhead Counties:

"While the counts of hunting activity in the area are large, they are dwarfed by even larger counts of angler activity tied to the area's highly valued fishing streams and lakes. FWP data on the number of "angler days" spent fishing streams and lakes in Madison and Beaverhead Counties place these at 600,000 to 850,000 a year, with expenditures by these anglers estimated at between \$45 and \$65 million annually. Combining estimates for all hunters and anglers, these expenditures could be expected to total almost \$100 million annually. While these expenditures are not all occurring in the two-county area, those that do result in considerable economic

activity and income infusion into local area retail businesses, restaurants and food stores, motels and other lodging facilities, and local area guide services. If the percentage of land managed by BLM in the two-county area is used to reflect a proportional contribution to the travel, tourism and recreation economy, BLM's contribution could be estimated at \$15 million annually."

Based on the importance of the fishery, the BLM did analyze in the RMP the potential for effects on the Class 1 fishery streams in the Dillon Field Office including the Beaverhead River. As a result of this analysis, it was determined in the ROD for the RMP that an NSO stipulation would be applied that established a ¼-mile no surface occupancy buffer from the center line of all Class 1 fishery streams.

Finally, the Dillon RMP requires a controlled surface use stipulation for all lands available for leasing in Madison and Beaverhead Counties, including the Beaverhead River corridor, which is used to mitigate impacts to visual resources.

"Resource: VRM Class II, III & IV Areas

Stipulation: Controlled Surface Use. All surface disturbing activities and construction of semi-permanent and permanent facilities may require special design including location, painting, and camouflage to blend with the natural surroundings and meet the visual quality objectives for each respective class.

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

The stipulation was inadvertently not included with BLM parcels in Beaverhead County on the March sale notice. This stipulation will protect the visual integrity of BLM lands and will be added to any leases issued for parcels that were available in the March sale in Beaverhead County. This stipulation applies to Visual Resource Management Classes II, III, and IV instead of only VRM Class II as CSU 12-4 does. In order to implement the applicable decision in our Dillon RMP, this stipulation will be added to any BLM parcel in the Dillon Field Office offered for lease in the future.

The Forest Service also uses stipulations to protect the visual quality on some lands that they administer within the boundaries of the Beaverhead NF. While not directly in the Beaverhead River Corridor, the Forest Service parcels in Beaverhead County receiving bids all had such stipulations applied. An NSO stipulation and two different CSU stipulations were added to portions of parcel MT-03-07-25. Parcels MT-03-07-20 through MT-03-07-25 and MT-03-07-48 have a single visual quality stipulation applied to them.

5.) Climate Change in Cumulative Effects Analysis:

Protest: The protest states:

"...the BLM should manage vulnerable systems like the Beaverhead River and its tributaries to prevent them from experiencing

regime shifts brought on by the impacts of climate change and remove other stressors from those systems by thoroughly analyzing cumulative impacts in the underlying land use plan and EIS that have authorized leasing and providing appropriate stipulations, lease terms, and/or decisions not to lease in these vulnerable habitats."

Response: The BLM believes that the direct, indirect, and cumulative effects of oil and gas leasing and development in Madison and Beaverhead Counties would be very low based on the amount of activity forecast in both the 1995 Forest Service EIS and the Dillon RMP (beginning at page 361 of the Proposed Dillon RMP and in Chapter IV of the 1995 Beaverhead NF FEIS). Under the RFD scenario for the 1995 Forest Service EIS, a total of 10 wildcat and 4 development wells were forecast over the 15 year period from adoption of the EIS. The BLM RFD scenario forecast a similar level of activity, 6 wildcats and 4 development wells over a 10 to 15-year time span. No new wells have been drilled in Madison or Beaverhead Counties since 1996. As an example of the disturbance forecast, the Dillon RMP forecast that 523 acres would be disturbed during drilling and before reclamation during the plans lifetime. The RFD forecast that 55.2 acres would be disturbed after reclamation. Appropriate stipulations and other mitigation measures were developed to mitigate impacts from this very low level of disturbance.

Decision: For the reasons stated above, your protest is dismissed except for those issues relating to the future application of visual resource stipulations on BLM lands. This decision to deny this protest may be appealed to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR 4.400 and the enclosed Form 1842-1 (Enclosure 3). If an appeal is taken, Notice of Appeal must be filed in the Montana State Office at the above address within 30 days from receipt of this Decision. A copy of the Notice of Appeal and of any statement of reasons, written arguments, or briefs must also be served on the Office of the Solicitor at the address shown on Form 1842-1. It is also requested that a copy of any statement of reasons, written arguments, or briefs be sent to this office. The appellant has the burden of showing that the Decision appealed from is in error.

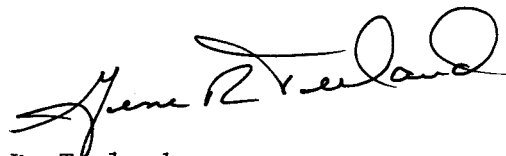
This Decision will become effective at the expiration of the time for filing a notice of appeal unless a petition for a stay of Decision is timely filed together with a notice of appeal, see 43 CFR 4.21(a) (Enclosure 4). The provisions of 43 CFR 4.21(b) define the standards and procedures for filing a petition to obtain a stay pending appeal.

We are issuing a lease for the lands included in protested parcels that received bids (03-07-20 through 03-07-25 to the successful bidders:

<http://www.mt.blm.gov/oilgas/leasing/index.html>

In case of an appeal, the adverse party to be served is Baseline Minerals, Inc., 518 17th Street, Suite 950, Denver, CO 80202.

If you have any questions regarding this decision, you may contact John Bown at (406) 896-5109 or fax (406) 896-5292.



Gene R. Terland
State Director

4 Enclosures

- 1-Protest Letter Received March 12, 2007 (7 pp)
- 2-Glosaries of BLM Surveying and Mapping Terms (Cover and page 30) (2 pp)
- 3-Form 1842-1 (1 p)
- 4-43 CFR 4.21(a) (1 p)

cc: (w/enclosures)

Tom Tidwell, Regional Forester, U. S. Forest Service, P.O. Box 7669,
Missoula, MT 59807-7669

Leslie Vaculik, U. S. Forest Service, P.O. Box 7669, Missoula, MT 59807-7669
Supervisor, Beaverhead NF, 420 Barrett St., Dillon, Montana 59725-3572

Klabzuba Oil & Gas, 700 17th Street, Ste 1300 Denver, CO 80202-3550

Empire Oil Company, PO Box 1835, Williston, ND 58802-1835

Nance Petroleum Corporation, PO Box 7168, Billings, ND 59103-7168

Headington Oil Ltd Partnership, 7557 Rambler Road, Ste. 1100, Dallas, TX
75231-2310

Nisku Royalty, LP, PO Box 2293, Billings, MT 59103-2293

Baseline Minerals, Inc., 518 17th Street, Suite 950, Denver, CO 80202-4110

Westech Energy Corporation, 245 Commerce Green Blvd #270, Sugar Land, TX
77478-3684