

[3410-11- P]

DEPARTMENT OF AGRICULTURE

Forest Service, Bridger-Teton National Forest

DEPARTMENT OF INTERIOR

Bureau of Land Management, Wyoming State Office

AGENCY: Forest Service, USDA, and Bureau of Land Management, DOI.

ACTION: Notice of Intent to prepare a Supplemental Environmental Impact Statement to analyze and disclose new information relative to oil and gas leasing of 44,720 acres on the Big Piney Ranger District.

SUMMARY: The Bureau of Land Management (BLM), after receiving nominated oil and gas lease parcels and appropriate lease stipulations from the Forest Service (FS), sold and issued 12 leases, and sold 23 other leases that have not been issued. An appeal to the Interior Board of Land Appeals (IBLA) resulted in a Stay being granted for the 12 issued leases. Upon request, the appeal was remanded back to the BLM for resolution. The IBLA decision held that BLM had relied on an inadequate/stale NEPA analysis in reaching its decision to sell and issue the lease parcels. In the case of oil and gas leasing decisions on National Forest system lands, and in conformance with a MOU between the BLM and FS which identifies the need for BLM to be a cooperating agency, the NEPA analysis that was relied on by BLM to inform leasing decisions was adopted from the appropriate and applicable Forest Service NEPA. This supplemental EIS will address the issues identified by IBLA as

inadequately or inappropriately addressed in previous NEPA analyses informing leasing decisions, and other issues identified through scoping.

DATES: Comments concerning new information or issues not previously considered in the leasing analysis must be postmarked no later than 45 days from the publication of this notice in the Federal Register. The Draft Supplemental EIS (DSEIS) is expected in May of 2008 and the Final Supplemental Environmental Impact Statement (FSEIS) is expected in September of 2008.

ADDRESSES: Send written comments to Stephen Haydon, Forest Minerals Staff, Bridger-Teton National Forest, 340 N. Cache, PO Box 1888, Jackson, WY 83001-1888. Send electronic comments to: comments-intermtn-bridger-teton@fs.fed.us

FOR FURTHER INFORMATION CONTACT: Stephen Haydon, Project Leader,

SUPPLEMENTARY INFORMATION: The Bridger-Teton National Forest made an oil and gas leasing decision in the forest plan signed in 1990. Subsequent Environmental Assessments were completed in the early 1990s to consider the impacts of oil and gas leasing in various Management Areas throughout the Forest. Since the early 1990s, several issues that have some bearing on oil and gas leasing have arisen and new information has become available. The Forest reviewed those issues and the new information and documented that review in a Supplemental Information Report dated February 25, 2004. The Forest Supervisor concluded that the new issues and information did not alter the previous leasing decision in the Forest Plan. Subsequently, in 2005 the Forest Service sent lease parcels covering 44,720 acres to the BLM for competitive lease sale. The BLM offered, sold and issued leases on 20,963 acres in December 2005 and April 2006, and sold but did not issue leases on the remaining 23,757 acres in June and August 2006. Following protest and BLM

State Director's Review, an appeal to the Interior Board of Land Appeals (IBLA) was filed for the December and April lease sales. The appeal included "Request for Stay", which the IBLA granted. Upon request by the BLM, IBLA remanded the appeals back to the BLM for resolution. This supplemental analysis will address the resource issues and effects analysis concerns identified by IBLA and additional issues identified through this scoping effort.

Purpose and Need for Action

The purpose and need for action is to determine whether and to what extent analysis of new issues and information might alter the oil and gas leasing decision as it relates to the 44,720 acres forwarded to the BLM for competitive lease sale. This action is needed to address the appropriateness of the previous leasing decisions, to decide the final disposition of the suspended existing leases and lease parcels, and to be responsive to the IBLA remand requiring incorporation of the new issues and information in the BLM decision to lift the suspension of lease parcels and issue oil and gas leases.

Proposed Action

The proposed federal action is to lift the current suspension on the issued December 2005 and April 2006 leases and to issue those that were sold but not issued from the June and August 2006 sales. To do so requires the analysis of new issues and information not available to the deciding officials at the time the leasing decision was made.

Possible Alternatives

The alternatives to be considered may include continuation of the current leasing decision contained in the forest plan, and the no action alternative, and potentially others identified in scoping. The no action alternative would involve not issuing the leases that have been sold but not issued, and the cancellation of the leases that were sold. Additional alternatives may

be identified once scoping is completed.

Lead and Cooperating Agencies

The Forest Service is the lead agency. The BLM and the State of Wyoming are cooperating agencies.

Responsible Official

The Forest Service responsible official for determining if and to what extent the analysis of new issues and information would alter the oil and gas leasing decision contained in the BTNF Forest Plan (36 CFR 228.102(d)) is Kniffy Hamilton, Forest Supervisor, Bridger-Teton National Forest, 340 N. Cache (P.O. Box 1888), Jackson, Wyoming 83001. The BLM responsible official for final decision (43 CFR 3101.7) relative to the issuance or disposition of the leases and lease parcels is Robert A. Bennett, State Director, BLM – Wyoming State Office 5353 Yellowstone (P.O. Box 1828), Cheyenne, Wyoming 82009.

Nature of Decision To Be Made

The Forest Service will determine if and how the current Forest Plan oil and gas leasing decision, as it relates to the 44,720 acres, should be changed based on new information. If a new decision is determined not to be needed following preparation of the Supplemental environmental impact statement, that determination is not subject to appeal in accordance with 36 CFR 215.12. The BLM will then decide whether or not the revised FS NEPA analysis is adequate, and subsequently whether to lift the suspension on the existing leases and whether or not to issue leases on the other lease parcels.

Scoping Process

Scoping for a supplemental statement is not required (40 CFR 1502.9(c)(4)), but due to the length of time since scoping associated with the current leasing decision was conducted, the

agencies are soliciting comments specific to new issues or information. Letters will be sent to the forest mailing list of known interested parties. Public meetings held in 2006 in association with forest plan revision efforts generated issues relative to oil and gas leasing. Comments received during those meetings will be considered in this supplemental analysis. The scoping process will assist the agencies in identifying specific issues to be addressed related to the purpose and need and the scope of the decision. Mail comments to the addresses given above for further information. Ongoing information related to the proposed action and related analysis will be posted on the Bridger-Teton National Forest Web site <http://www.fs.fed.us/r4/btnf>.

Preliminary Issues

Preliminary issues associated with the proposed action include:

- 1) The drilling and production of wells subsequent to leasing could impact air quality and air quality related values, with emphasis on cumulative effects due to extensive development in the Pinedale area.
- 2) The T&E listed Lynx, or its habitat, could be impacted by subsequent exploration and development activities.
- 3) Impacts to water quality due to subsequent surface disturbing activities could adversely affect the Colorado River Cutthroat Trout.
- 4) The development of a transportation system to support field development could adversely affect mule deer migration routes in the area and fragment habitat..

Comment Requested

This notice of intent initiates the scoping process which guides the development of the supplemental environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental

Review: A Supplemental DEIS will be prepared for comment. The comment period on the SDEIS will be for a period of 45 days from the date the Environmental Protection Agency publishes the notice of availability in the Federal Register.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of a DEIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon v. Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental

Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Kniffy Hamilton

Forest Supervisor, Bridger-Teton National Forest

(Date)