

APPENDIX D

OIL AND GAS LEASE STIPULATION PROCESS

APPENDIX D-1

OIL AND GAS PROCESSING PROCEDURES

Application for Permit to Drill Approval:

Although oil and gas operations physically start after the APD is approved, the BLM's oil and gas responsibilities actually begin before the oil and gas lease is issued. The District's responsibilities include review of competitive and noncompetitive leases and nomination of new tracts for leasing with recommendation of special stipulations to be added to these leases. These stipulations cover a wide spectrum of subjects, often ranging from wildlife protection to hydrocarbon-drainage protection, and usually have some effect on the Federal permitting process. Once the leases are issued the lessee, or his designated operator, can then proceed to initiate the permitting process.

An initial step in permitting the well drilling process is approval of an APD. When applying for an APD the operator has two options which can be followed — the Notice of Staking (NOS) option or the APD option.

NOS Option — Prior to filing a complete APD, the operator may, at its option, file a NOS with the authorized officer of the BLM. The notice must include a survey plat, and cut and fill diagrams of all proposed areas of disturbance. If all required information is not included, the NOS is usually returned to the operator for modification.

When a complete NOS is received, a review is performed to identify the need for associated rights-of-way and special use permits, cultural resource clearance, wildlife conflicts, or other associated surface concerns. An onsite predrill inspection must be conducted within 15 days of receipt of the NOS.

During the predrill inspection, the surface use and reclamation stipulations must be developed and provided to the operator, within five working days from the date of the inspection. The operator must then incorporate these stipulations into a technically complete APD and submit it to the authorized officer.

When the APD is received, it is reviewed for completeness and technical adequacy. Once all required information is received, the District has 10 days to approve the application.

APD Option — When using this option, the operator need not file a NOS or any other paperwork prior to submittal of the complete APD. Once the APD is received by the authorized officer, a review must be completed and the operator must be notified as to whether the application is complete or deficient within seven working days of receipt of the application.

An onsite inspection must be conducted with the operator or his representative within 15 days of receipt of the APD to develop the surface use and reclamation stipulations that will be included in the approved application. Under this option the District has 30 days to complete processing of

the APD from the date it is technically and administratively complete.

All applications are reviewed for aspects of:

1. Public Health and Safety
2. Unique Characteristics
3. Environmental Controversy
4. Uncertain and Unknown Risks
5. Establishment of Precedent
6. Cumulatively Significant
7. Cultural Resources and eligibility for NRHP
8. Endangered and Threatened Species and
9. Violations of Federal, State, and Local Law.

If the problems are identified and could not be mitigated, an EIS would be required.

Drilling Operations:

Once the APD is approved, the operator may begin construction of the well pad, access road, and may start drilling the well. The operator is required to report the spud date (date drilling begins) within 48 hours of commencement.

An inspection must be made of each well while it is being drilled to ensure compliance with Federal Regulations and the approved APD. If some aspect of the APD is not being met, an Incident of Noncompliance must be written and a follow-up inspection may be required. Different phases of the drilling at which inspections may be made include: running casing and cementing, setting up safety equipment, testing or logging, or actual drilling operations.

Abandonment Operations:

If the well is dry, the operator must receive plugging instruction from the staff engineers before plugging the well. Even though these instructions may be verbal, a "Notice of Intent to Abandon" and a "Subsequent Report of Abandonment" must be submitted on the Sundry Notice Form within 30 days of plugging the well. The Notice of Intent to Abandon may be approved immediately, but the Subsequent Report of Abandonment must be held until the well has been rehabilitated and a "Final Abandonment Notice" (FAN) has been received. At this point the site will be reinspected. Approval of the Subsequent Report of Abandonment releases the well from bond coverage and closes the District's files. BLM personnel usually inspect the physical plugging process.

Subsequent Well Operations:

If the well is completed as a producer a permanent inspection file is set up, and if possible, the well is inspected at least once annually.

The operator is required to submit "Monthly Reports of Operations," "Well Completion or Recompletion Reports",

and applications for any other sundry work which is not covered by the original APD or the Federal Regulations.

Drainage Protection:

The District is responsible for protecting all Federal or Indian minerals from drainage. Drainage may be caused by state wells, fee or patented wells, other federal wells, or Indian wells. If a case of drainage is suspected, the lessee of the offended tract is notified and reservoir information is solicited. Once all needed information is obtained, a final decision is made and the lessee is again notified of the decision. This decision could involve a determination of "no drainage" or a demand to protect the lease from drainage. The lease could be protected by drilling another well or by paying compensatory royalty.

If the affected oil and gas reserves are unleased, the District recommends to MSO the offended tract be offered for leasing with appropriate drainage protection stipulations.

APPENDIX D-2

OIL AND GAS LEASE STIPULATIONS

UNITED STATES DEPARTMENT OF THE INTERIOR
Bureau of Land Management
222 North 32nd Street
P.O. Box 36800
Billings, Montana 59107

(Serial Number)

OIL AND GAS LEASE STIPULATIONS

ESTHETICS—To maintain esthetic values, all surface-disturbing activities, semipermanent and permanent facilities may require special design including location, painting and camouflage to blend with the natural surroundings and meet the intent of the visual quality objectives of the Federal Surface Managing Agency (SMA).

EROSION CONTROL—Surface-disturbing activities may be prohibited during muddy and/or wet soil periods.

CONTROLLED OR LIMITED SURFACE USE STIPULATION—This stipulation may be modified, consistent with land use documents, when specifically approved in writing by the Bureau of Land Management (BLM) with concurrence of the SMA. Distances and/or time periods may be made less restrictive depending on the actual onground conditions. The prospective lessee should contact the SMA for more specific locations and information regarding the restrictive nature of this stipulation.

The lessee/operator is given notice that the lands within this lease may include special areas and that such areas may contain special values, may be needed for special purposes, or may require special attention to prevent damage to surface and/or other resources. Possible special areas are identified below. Any surface use or occupancy within such special areas will be strictly controlled, or if **absolutely necessary**, excluded. Use or occupancy will be restricted only when the BLM and/or the SMA demonstrates the restriction necessary for the protection of such special areas and existing or planned uses. Appropriate modifications to imposed restrictions will be made for the maintenance and operations of producing oil and gas wells.

After the SMA has been advised of specific proposed surface use or occupancy on the leased lands, and on request of the lessee/operator, the Agency will furnish further data on any special areas which may include:

100 feet from the edge of the rights-of-way from highways, designated county roads and appropriate federally-owned or controlled roads and recreation trails.

500 feet, or when necessary, within the 25-year flood plain from reservoirs, lakes, and ponds and intermittent, ephemeral or small perennial streams; 1,000 feet, or when necessary, within the 100-year flood plain from larger perennial streams, rivers, and domestic water supplies.

500 feet from grouse strutting grounds. Special care to avoid nesting areas associated with strutting grounds will be necessary during the period from March 1 to June 30. One-fourth mile from identified essential habitat of state and federal sensitive species. Crucial wildlife winter ranges during the period from December 1 to May 15, and in elk calving areas, during the period from May 1 to June 30.

300 feet from occupied buildings, developed recreational areas, undeveloped recreational areas receiving concentrated public use and sites eligible for or designated as National Register sites.

Seasonal road closures, roads for special uses, specified roads during heavy traffic periods and on areas having restrictive off-road vehicle designations.

On slopes over 30 percent, or 20 percent on extremely erodable or slumping soils.

(Date)

(Signature)

See Notice On Back

MT-3109-1 (April 1987)

NOTICE

APPLICATIONS FOR PERMIT TO DRILL (APDs)—The BLM district or resource area offices are responsible for the receipt, processing, and approval of APDs. The APDs are to be submitted by oil and gas operators pursuant to the requirements found in Onshore Oil and Gas Order No. 1 — Approval of Operations on Onshore Federal and Indian Oil and Gas Leases (Circular No. 2538). Additional requirements for the conduct of oil and gas operations on federal oil and gas leases can be found in Code of Federal Regulations Title 43, Part 3160. Copies of Onshore Oil and Gas Order No. 1, and pertinent regulations, can be obtained from the BLM district offices in which the operations are proposed. Early coordination with these offices on proposals is encouraged.

CULTURAL AND PALEONTOLOGICAL RESOURCES—The SMA is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures. Prior to undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the SMA, shall:

1. Contact the appropriate SMA to determine if a site-specific cultural resource inventory is required. If an inventory is required, then;
2. Engage the services of a cultural resource specialist acceptable to the SMA to conduct a cultural resource inventory of the area of proposed surface disturbance. The operator may elect to inventory an area larger than the area of proposed disturbance to cover possible site relocation which may result from environmental or other considerations. An acceptable inventory report is to be submitted to the SMA for review and approval no later than that time when an otherwise complete application for approval of drilling or subsequent surface-disturbing operation is submitted.
3. Implement mitigation measures required by the SMA. Mitigation may include the relocation of proposed lease-related activities or other protective measures such as testing salvage and recordation. Where impacts to cultural resources cannot be mitigated to the satisfaction of the SMA, surface occupancy on that area must be prohibited.

The lessee or operator shall immediately bring to the attention of the SMA any cultural or paleontological resources discovered as a result of approved operations under this lease, and not disturb such discoveries until directed to proceed by the SMA.

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

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

This lease is within known golden eagle habitat. A biological assessment of the area may be necessary which could significantly delay processing of an APD. The lessee/operator should allow sufficient lead time to conduct a biological assessment should one be needed.

APPENDIX D-3

SPECIAL LEASE STIPULATIONS AND LEASING RESTRICTIONS

The following stipulations only apply to mineral-related activities in the planning area. **These stipulations represent mitigation measures necessary to avoid or minimize adverse impacts to the human environment (40 CFR 1502.14(f) and 1502.16(h)). Most of the area included under the stipulations involves split estate. In the case of split estate the stipulations do not dictate surface management on private lands but are intended only to provide required protection of important resources that otherwise may be impacted by federal actions.**

The areas of federal oil and gas covered by the following stipulations are portrayed in Map K-1 of the draft. At APD time, negotiations between the surface owner, operator, and BLM may be undertaken to incorporate specific needs of the surface owner. This may result in small adjustments to buffer zones, for example, where adequate protection can be provided without strict adherence to specific distances set forth in the stipulations.

If these special stipulations are not effective in providing the desired degree of resource protection, they may be revised at a future date.

The NSO acreages listed below under Alternative C are approximate totals as of December 1986. They are provided only to give perspective to the possible extent of NSO stipulations at one point in time. Changes in these totals will continually occur as resources change. Other acreages listed under Alternatives C and D are the maximum totals theoretically possible.

Definition

Surface Occupancy — Occupancy of the land surface with pumps, drilling rigs, tank batteries, roads and other facilities that require repeated visits or maintenance.

Exceptions (may be applied to any stipulation **except Threatened and Endangered Species**)

These limitations do not apply to maintenance and operation of producing wells. This stipulation may be waived or reduced if circumstances change, or if the lessee can demonstrate that operations can be conducted without causing unacceptable impacts. Exceptions to this limitation in any particular year may be specifically approved in writing by the authorized officer. **In all cases the stipulation (including any modification) will be designed to present the least restrictive measure for avoiding unacceptable adverse impacts.**

Stipulations and Leasing Restrictions

Threatened and Endangered Species

(All Alternatives)

The Surface Management Agency is responsible for assuring that the leased land is examined prior to undertaking any surface-disturbing activities to determine effects upon any plant or animal species, listed or proposed for listing as endangered or threatened, or their habitats. The findings

of this examination may result in some restrictions to the operator's plans or even disallow use and occupancy that would be in violation of the Endangered Species act of 1973 by detrimentally affecting endangered or threatened species or their habitats.

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

Elk Winter Range (No elk winter range has been identified as of this date. Stipulation will apply if and when such habitat is identified.)

No seismic exploration, construction, or other development would be allowed on elk winter range between November 30 and May 1.

Elk Calving (No elk calving habitat has been identified as of this date. Stipulation will apply if and when such habitat is identified.)

No seismic exploration, construction, or other development would be allowed on elk calving range between June 1 and July 1.

Sage Grouse

NSO would be allowed within 200 feet of strutting grounds (**40 acres**).

No seismic exploration, construction, or other development would be allowed within two miles of strutting grounds between March 1 and June 30 (**up to 48,705 acres**).

Wetlands

NSO would be allowed within 200 feet of wetlands, lakes and ponds (**up to 57,355 acres**).

No seismic exploration would be allowed within 500 feet of waterfowl nesting habitat between March 1 and July 1.

Ferruginous Hawk

NSO would be allowed within one-half mile of ferruginous hawk nests known to be occupied at least once within the seven previous years (**1200 acres**).

No seismic exploration, construction, or other development would be allowed within 1.2 miles of occupied nests between **March 15** and July 15 (**up to 55,005 acres**).

Prairie Falcon

NSO would be allowed within one-half mile of prairie falcon nests known to be occupied at least once within the seven previous years (**5200 acres**).

No construction, seismic exploration, or other development would be allowed within one-half mile of occupied nests between **March 15** and July 15 (**up to 90,205 acres**).

Golden Eagles

NSO would be allowed within one-half mile of golden eagle nests known to be occupied at least once within the seven previous years (3600 acres).

No construction, seismic exploration, or other development would be allowed within one-half mile of occupied nests between February 15 and July 15 (up to 90,205 acres).

Riparian Habitat

No disturbance of riparian areas of wetlands, intermittent, ephemeral, or perennial streams and rivers would be allowed except for essential road and utility crossings (up to 151,951 acres).

Bighorn Sheep

Bighorn Sheep Winter Range (No bighorn sheep winter range has been identified as of this date. Stipulation will apply if and when such habitat is identified.)

No construction, seismic exploration, or other development would be allowed on bighorn sheep winter range between December 1 and April 1.

Bighorn Sheep Lambing (No bighorn sheep lambing habitat has been identified as of this date. Stipulation will apply if and when such habitat is identified.)

No construction, seismic exploration, or other development would be allowed in bighorn sheep lambing habitat between April 1 and June 15.

Prairie Dog Towns (up to 4,520 acres)

A black-footed ferret inventory may be required prior to any development (up to 4,520 acres). (See Threatened and Endangered species stipulation).

Fort Union Historic Site

If visual impacts of oil and gas development cannot be satisfactorily avoided or mitigated, NSO would be allowed within the visible area within a 3.5 mile radius of the Fort Union Historic Site (380 acres).

Off-Road Vehicles

Between March 1 and June 1 travel will be restricted to maintained roads in the Big Gumbo Area. Exceptions will be allowed for emergency uses if approved by the authorized officer.

Floodplains

NSO would be allowed to protect the floodplain of the Missouri River from possible pollution (694.41 acres).