United States Department of the Interior
Bureau of Land Management

Record of Decision

February 2015

Record of Decision and Final Environmental Impact Statement
Lands Administered by the Fishlake National Forest
Oil and Gas Leasing

Location: Fishlake National Forest
Teasdale Ranger District, Dixie National Forest
Beaver, Garfield, Iron, Juab, Millard, Piute, Sanpete, Sevier, and Wayne Counties, Utah

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Bureau of Land Management - Utah
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1.0 Introduction

1.1 Summary

With this Record of Decision ("ROD"), the Bureau of Land Management ("BLM") formally adopts the ROD and Final Environmental Impact Statement ("FEIS") for Lands Administered by the Fishlake National Forest - Oil and Gas Leasing. The BLM concurs with the selection of Alternative C from that FEIS, as documented and modified by the ROD issued by the United States Forest Service ("USFS") on August 20, 2013, and the attached USFS letter ("January 24 USFS Appeal Resolution Letter") (Attachment 1), dated January 24, 2014, which recorded the terms of the agreement under which an appeal filed by WildEarth Guardians, Grand Canyon Trust and Western Resource Advocates on the aforementioned USFS-issued ROD and FEIS was resolved.[1]

The BLM, which served as a cooperating agency in the preparation of the aforementioned FEIS, has determined, following an independent review, that the suggestions and comments it provided during the preparation of the FEIS have been satisfied and that the FEIS was prepared in manner that complies with all requirements imposed by the National Environmental Policy Act ("NEPA"), 42 United States Code ("USC") §§ 4321 *et seq.*, the Council on Environmental Quality ("CEQ") regulations that implement the NEPA, 40 Code of Federal Regulations ("CFR") §§ 1500 – 1508, and all policies of the Department of the Interior ("DOI") and the BLM for the preparation of NEPA documents. In light of these determinations, the BLM has elected to adopt the USFS-issued ROD and FEIS without recirculation, as is provided for by 40 CFR §1506.3(c).

This BLM ROD, if accompanied in the future by a leasing consent and appropriate surface use restrictions from the USFS, will allow the BLM to offer for oil and gas lease the federal minerals underlying certain lands under the administration of the Fishlake National Forest ("NF").

1.2 Background

With respect to the issuance and administration of oil and gas leases on National Forest System ("NFS") lands, the BLM and the USFS have shared responsibilities. These shared responsibilities derive from the Federal Onshore Oil and Gas Leasing Reform Act of 1987

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[1] The ROD and FEIS for Lands Administered by the Fishlake National Forest – Oil and Gas Leasing is available at the Fishlake National Forest Supervisor's Office at 115 East 900 North, Richfield, UT 84701 or by request to the BLM Utah State Office at 440 West 200 South, Suite 500, Salt Lake City, UT 84101 or 801-539-4067. The documents may also be accessed online at: http://www.fs.usda.gov/projects/fishlake/landmanagement/projects.

("FOOGLRA"), Pub. L. No. 100-203, which amended the Mineral Leasing Act of 1920 ("MLA"), 30 USC §§ 181 *et seq.*.

To implement the FOOGLRA, regulations were promulgated by the BLM in 1988 (e.g. 43 CFR § 3101.7) and the USFS in 1990 (36 CFR § 228 Subpart E) (collectively "implementing regulations"). These implementing regulations describe the procedures by which each agency shall carry out its statutory responsibilities for oil and gas leasing of NFS lands. Moreover, in 2006, the BLM and the USFS entered in to a memorandum of understanding ("MOU"), *Concerning Oil and Gas Leasing and Operations*, FS Agreement No. 06-SU-11132428-052 (2006), which further defined the responsibilities of each agency with respect to oil and gas leasing on NFS lands.

Under the MLA, as amended by the FOOGLRA, the implementing regulations, and the MOU, the BLM is solely responsible for the offering for sale and issuance of oil and gas leases on NFS lands, but it may only exercise this authority with the consent of, and subject to any surface protections required by, the USFS. *E.g.,* 30 USC § 226(a), (g)-(h); 43 CFR § 3101.7; MOU at 2, 8-10. Furthermore, before the USFS can provide BLM with its consent to lease specific NFS lands, it must first undertake in a "leasing analysis" whereby it identifies which NFS lands are administratively available for oil and gas leasing and, for those lands identified as available for leasing, any restrictions on lease operations, such as lease stipulations, that are necessary to protect surface resources or other uses for the subject NFS lands. 36 CFR § 228.102(a)-(d).

The USFS-issued FEIS and ROD addressed by this BLM ROD were prepared in order to accomplish the aforementioned leasing analysis and availability identification pursuant to 36 CFR § 228.102(a)-(d) for the NFS lands under the administration of the Fishlake NF, an area consisting of approximately 1,707,810 acres of land.[2] As such, on August 20, 2013, based upon the analysis in the FEIS, the USFS issued the aforementioned ROD ("USFS ROD") in order to document its decision to select Alternative C from the FEIS and in doing so it identified which lands administered by the Fishlake NF would be administratively available for oil and gas leasing, and under what surface use conditions, as is required by 36 CFR § 228.102(a)-(d).

The USFS ROD also documents the decision of the USFS to amend the applicable land and resource management plans ("LRMPs") for the analysis area of the FEIS. More specifically, the USFS ROD amends the Fishlake NF LRMP (1986) ("Fishlake LRMP") by designating approximately 1,454,511 acres of land as administratively available for oil and gas leasing subject to specific resource protecting conditions (lease terms, stipulations and lease notices). The USFS ROD also amends the Dixie NF LRMP (1986) ("Dixie LRMP") by designating approximately 253,299 acres of land, which the Fremont River Ranger District of the Fishlake NF currently administers, as administratively available for oil and gas leasing subject to specific resource protecting conditions (lease terms, stipulations and lease notices). These amendments to the Fishlake and Dixie LRMPs were necessary because those LRMPs, both of which were issued

[2] The 1,707,810 acres of NFS lands under the administration of the Fishlake NF, which constituted the analysis area for the FEIS, is comprised of the approximately 1,454,511 acres of land that was previously addressed by the land and resource management plan issued for the Fishlake NF in 1986 and approximately 253, 299 acres of land that was previously addressed by the land and resource management plan issued for the Dixie NF in 1986, which the Fremont River Ranger District of the Fishlake NF currently administers.

prior to the enactment of the FOOGLRA, did not include the leasing analysis and oil and gas leasing administrative availability determination, as required by 36 CFR § 228.102, prior to being amended by the USFS ROD.

Once the USFS has completed a leasing analysis and identified which NFS lands are administratively available for leasing pursuant to 36 CFR § 228.102(c)-(d), upon receiving a notification from the BLM regarding specific NFS lands that have been proposed for leasing, the USFS may provide the BLM with consent to lease the specific NFS lands in accordance with 36 CFR § 228.102(e). More specifically, 36 CFR § 228.102(e) provides that the USFS shall consent to a BLM request to offer specific NFS lands for lease, if it has determined that: 1) oil and gas leasing of the specific NFS lands has been adequately addressed in a NEPA document, and is consistent with the applicable LRMP; 2) the conditions for surface occupancy, as identified through 36 CFR § 228.102(c)(1), have been included as a stipulation(s) on the proposed lease(s); and 3) oil and gas operations could be permitted somewhere on each proposed lease, except where lease stipulations prohibit all surface occupancy.

After the USFS provides its consent to lease specific NFS lands, the BLM is responsible for offering any such NFS lands at a competitive oil and gas lease sale auction, which includes the posting of a public notice for the lease sale where NFS lands will be offered for lease and, with assistance from the USFS, resolving any public protests received for proposed lease sale parcels on NFS lands. If the BLM and the USFS determine that a protest, or protests, received on a proposed lease parcel cannot be resolved prior to the lease sale, the parcel may be withheld from offering at the sale, but the existence of an unresolved protest does not mandate that the parcel be withheld from offering at a lease sale. However, if a parcel with an unresolved protest(s) is offered and sold at a lease sale, a lease will not be issued for that parcel until all protests of the parcel have been resolved. *See* 30 USC § 226(a), (f), (h); 43 CFR Part 3100; MOU at 9-10.

After an oil and gas lease is issued on NFS lands, an oil and gas lessee/operator may propose specific oil and gas development operations on the lease by submitting an Application for Permit to Drill ("APD"), which will include a proposed Surface Use Plan of Operations ("SUPO"). The USFS has the full responsibility and authority for approving and regulating surface-disturbing activities associated with oil and gas exploration and development on NFS lands. These responsibilities include the approval of the SUPO component of APDs. The BLM has the authority and responsibility to regulate subsurface operations, and directly related surface activities and uses, for oil and gas leases issued on NFS lands. These responsibilities of the BLM include reviewing and approving the Drilling Plan ("DP") component of APDs and final approval authority for APDs. A lessee/operator may not conduct surface-disturbing activities on a lease without an approved APD and SUPO. 30 USC § 226(g); 43 CFR §§ 3101.1, 3162.3; 36 CFR §§ 228.106-108; MOU at 12-14.

If lands are leased and a lessee/operator applies for an APD, only then would the USFS and the BLM consider the approval of specific ground-disturbing operations. Moreover, approval of such ground-disturbing activities would require and will be based upon a site-specific analysis in accordance with the NEPA and other federal laws intended to protect the environment and other non-mineral resources and uses on the land. If the site-specific analysis at the APD stage identifies potential environmental impacts or resource conflicts that warrant specific protections,

the USFS and the BLM can take full advantage of the provisions included in the standard lease terms ("SLT"), which are described in BLM Form 3100-11[3] and at 43 CFR § 3101.1, and any stipulations and lease notices attached to the lease to work with the lessee/operator in order to protect potentially impacted resources. 30 USC § 226(g); 43 CFR §§ 3101.1, 3162.3; 36 CFR §§ 228.106-108; MOU at 12-14.

1.3 Purpose of and Need for Action

The purpose of and need for this action is to allow the BLM and the USFS to be responsive to oil and gas leasing proposals submitted for lands under the administration of the Fishlake NF in manner that complies with the requirements imposed by the MLA, the FOOGLRA and its implementing regulations, the NEPA, and other federal laws and regulations applicable to oil and gas leasing and development on NFS lands.

Pursuant to the MLA, as amended by the FOOGLRA, BLM Utah must hold competitive oil and gas lease sales on "at least [a] quarterly" basis, when eligible federal lands, which may include NFS lands, are available. *See* 30 USC § 226(b)(1)(A). As previously discussed, the BLM is responsible for the offering for sale and the issuance of oil and gas leases on NFS lands, but it may only exercise this authority with the consent of, and subject to surface protections required by, the USFS. 30 USC § 226(a), (g)-(h); 43 CFR § 3101.7. Moreover, before the USFS can provide BLM with a consent to lease, it must first undertake in a "leasing analysis" pursuant to 36 CFR § 228.102(c) whereby it identifies which NFS lands are administratively available for oil and gas leasing and, for those lands identified as available for leasing, any restrictions, such as lease stipulations, that are necessary to protect surface resources. 36 CFR § 228.102(a)-(e). The FEIS and USFS ROD have been prepared in order to accomplish the aforementioned leasing analysis and availability identification, as required by 36 CFR § 228.102, for the NFS lands administered by the Fishlake NF.

The existing LRMPs for the analysis area of the FEIS were issued prior to the enactment/promulgation of the FOOGLRA and its implementing regulations. As a result, those LRMPs lacked the leasing analysis and leasing availability identification that 36 CFR § 228.102(a)-(e) requires before an oil and gas lease may be issued on NFS lands. Thus, the FEIS and USFS ROD also serve to amend the applicable LRMPs so as to incorporate in to those LRMPs the leasing analysis and administrative availability determinations, as well as the required surface use restrictions, that were identified through the FEIS and USFS ROD and which are require in order for new oil and gas leases to be issued on the NFS lands under the administration of the Fishlake NF.

Pursuant to the NEPA, the responsible federal agencies are required to identify and assess the potential environment impacts that may result from the oil and gas leasing and development actions that may occur as a result of the decisions made with the USFS ROD. *See* 42 USC § 4332(2)(C). Accordingly, the FEIS and USFS ROD were prepared in order to document the processes and methodology utilized for the subject leasing analysis and identify and assess the reasonably foreseeable environmental impacts that might occur as a result of future oil and gas

[3] 43 CFR § 3101.1-1 requires the use of BLM Form 3100-11 for oil and gas leases issued pursuant to 43 CFR Part 3100, including those issued on NFS lands.

leasing on the NFS lands under the administration of the Fishlake NF. The USFS, as the surface managing agency for the analysis area, served as the lead agency, as described by 40 CFR § 1501.5 and § 1508.16, in the preparation of the FEIS and USFS ROD. The BLM, as the agency that would be responsible for the issuance and administration of oil and gas leases issued on the subject NFS lands, participated as a cooperating agency, as described by 40 CFR § 1501.6 and § 1508.5, in the preparation of the FEIS.

In order for the BLM to carry out its responsibilities with respect to the oil and gas leasing of specific NFS lands where the USFS has provided its consent to lease based upon a leasing analysis completed pursuant to 36 CFR § 228.102 and the NEPA, the BLM must independently review the NEPA document(s) that provide the basis for the USFS leasing consent decision and then make an independent decision on lease issuance. *E.g., Center for Native Ecosystems,* 182 IBLA 37, 49 (2012) (*citing* 40 CFR § 1506.3 and MOU at 5-6). Moreover, in order for the BLM to rely upon a NEPA document(s) in making an independent leasing decision, it must formally adopt the subject NEPA document(s) and, in doing so, it must certify that the adopted NEPA document(s) was prepared in compliance with the NEPA, the CEQ regulations implementing the NEPA, and the BLM's own procedures and requirements for the preparation of NEPA documents. 40 CFR § 1506.3; BLM NEPA Handbook, H-1790-1 § 5.4; MOU at 5-6 and 8-10; *See also, Center for Native Ecosystems,* 182 IBLA 37, 49 (2012) (*citing* 40 CFR § 1506.3 and MOU at 5-6). The CEQ regulations and the BLM's own NEPA policies further mandate that the BLM formally adopt NEPA documents that were prepared with another agency serving as the lead agency by way of a separately-issued BLM decision document. *E.g.*, BLM NEPA Handbook, H-1790-1 § 5.4.1 (*citing Forty Most Asked Questions Concerning CEQ's NEPA Regulations* (1981)). As such, the purpose of this ROD ("BLM ROD") is to document the BLM's formal adoption of the FEIS and USFS ROD, which includes the BLM's independent determination that the FEIS was prepared in manner that complies with all requirements imposed by the NEPA, the CEQ regulations, and all applicable BLM requirements and procedures.

As previously noted, pursuant to the MLA, as amended, the BLM Utah must hold competitive oil and gas lease sales, at least quarterly, when eligible federal lands, which may include NFS lands, are available. *See* 30 USC § 226(b)(1)(A). Thus, for the reasons discussed above, the formal adoption action provided for by this ROD will assist the BLM Utah in carrying out its oil and gas leasing responsibilities under the MLA with respect to the NFS lands under the administration of the Fishlake NF.

2.0 Decision

With this ROD, the BLM Utah formally adopts the USFS ROD and FEIS for Lands Administered by the Fishlake NF - Oil and Gas Leasing and concurs with the selection of Alternative C from that FEIS, as documented and modified in the ROD issued by the USFS on August 20, 2013, and the January 24 USFS Appeal Resolution Letter. Under this decision, approximately 1,707,810 acres of NFS land under the administration of the Fishlake NF would be administratively available for oil and gas leasing and subject to the operational restrictions (lease notices and stipulations) identified in the FEIS at Appendix A, and as modified by the January 24 USFS Appeal Resolution Letter.

This ROD also serves to formally document the conclusions by the BLM that the comments and suggestions it provided while serving as a cooperating agency in the preparation of the FEIS have been satisfied and that the FEIS was prepared in manner that complies with all requirements imposed by the NEPA, the CEQ regulations implementing the NEPA, and all applicable requirements and policies of the BLM and the DOI. This ROD also documents the BLM's concurrence with the determination by the USFS at pages 19-21 of the USFS ROD regarding the consistency of the USFS ROD and FEIS with other applicable laws, regulations and policies. As a result of these determinations, the BLM has elected to adopt the FEIS and USFS ROD without recirculation, as is provided for by 40 CFR § 1506.3(c).

This ROD does not, by itself, authorize the issuance of any oil and gas leases. However, if in the future the USFS provides the BLM with its consent, as well as the surface use restrictions required, to lease specific NFS lands under the administration of the Fishlake NF, the decisions and determinations made with this ROD may be relied upon to support future decisions by the BLM to issue oil and gas leases for certain NFS lands. The BLM cannot offer lands within the Fishlake NF for oil and gas leasing without the USFS first providing its consent to lease in accordance with the procedures and requirements described in 36 CFR § 228.102(e). 30 USC § 226 (h); 43 CFR § 3101.7; 36 CFR § 228.102(a)-(e). Pursuant to 36 CFR § 228.102(e), if and when the BLM provides the USFS with a proposal to offer specific NFS lands for oil and gas lease, the USFS will review any such proposal within the context of the decisions and analysis contained within the USFS ROD and the FEIS and provide its consent to the subject leasing proposal only if it determines that: 1) the subject oil and gas leasing proposal has been adequately addressed in an existing NEPA document, and is consistent with the applicable LRMP; 2) the necessary restrictions on surface occupancy, as identified through 36 CFR § 228.102(c)(1), would be imposed as a stipulation(s) on the proposed lease(s); and 3) oil and gas operations could be permitted somewhere on each proposed lease, except where lease stipulations prohibit all surface occupancy.

This ROD also does not authorize any ground-disturbing operations on NFS lands. Specific surface-disturbing activities to develop oil and/or gas from NFS lands under the administration of the Fishlake NF would be considered for approval only after the lands have been leased and additional site-specific environmental analysis has occurred pursuant to an APD. 30 USC § 226(g); 43 CFR §§ 3101.1, 3162.3; 36 CFR § 228.106-108; MOU at 12-14.

The CEQ regulations at 40 CFR § 1505.2(c) require that decision documents, such as this ROD, state whether all practicable means to avoid or minimize environmental harms that may result from the selected alternative have been adopted, and if not, why they were not. Mitigation for resource impacts that may result from oil and gas development operations on Fishlake NF administered lands would occur through the application of the SLT and the stipulations and lease notices identified in Appendix A of the FEIS and the January 24 USFS Appeal Resolution Letter. If the additional site-specific environmental analysis that would occur at the APD stage identifies potential environmental impacts or resource conflicts that require specific protections, the BLM and the USFS may take full advantage of the protections available pursuant to the USFS ROD, as modified by the January 24 USFS Appeal Resolution Letter, which includes the applicable stipulations and lease notices, as identified in Appendix A of the FEIS and the January 24 USFS Appeal Resolution Letter, and the SLT identified in BLM Form 3100-11 and at 43 CFR §

3101.1, and the approval of an APD may be conditioned upon compliance with certain conditions of approval ("COAs"), which the USFS and the BLM may develop and require compliance with so long as such COAs are consistent with the restrictions imposed by the SLT or any stipulations attached to a lease at the time of issuance. *E.g.*, 30 USC § 226(g); 43 CFR §§ 3101.1, 3162.3; 36 CFR § 228.106-108; MOU at 12-14.

For the reason discussed above and in the USFS ROD and FEIS, the BLM concurs with the determination by the USFS that the selection of Alternative C from the FEIS, with the modifications referenced above, includes all of the practicable mitigation and other protective measures needed to avoid or minimize environmental harms that may result from the decisions made with this ROD and the USFS ROD. The BLM has also determined that, of the alternatives considered in detail, Alternative C from the FEIS, with modifications as previously noted, best met the purpose and need for action discussed in section 1.3 of this ROD. These determinations were based upon, among other things, considerations of the statutorily imposed mineral leasing responsibilities of the BLM and the USFS, the identification and analysis of non-mineral and mineral resources within the FEIS and USFS ROD and the specific location and level of restrictions that would be imposed upon any oil and gas operations pursuant to the selected alternative and the modifications of that alternative as previously described.

3.0 Overview of the Alternatives

Alternatives were developed through public scoping, internal discussions, considerations and analysis by resource specialists for the USFS and coordination with cooperating agencies and interested parties during the preparation of the FEIS. Ultimately, the FEIS considered four alternatives (Alternatives A - D) in detail. These alternatives are described in Chapter of 2 the FEIS and in the USFS ROD at page 17. This ROD incorporates by reference the detailed descriptions of those alternatives, as stated in the USFS ROD and the FEIS. Brief descriptions of the four alternatives that the FEIS considered in detail have been provided below.

The CEQ regulations implementing the NEPA require that environmental impact statements ("EISs") include a "no action" alternative. 40 CFR § 1502.14(d). Alternative A, under which no new oil and gas leases would be issued for lands administered by the Fishlake NF, constituted the no action (and no lease) alternative for the subject Fishlake NF oil and gas leasing FEIS.

The Alternatives B, C, and D considered by the FEIS all would allow for some level of new oil and gas leasing to occur on the lands under the administration of the Fishlake NF. Furthermore, all three alternatives would make approximately 1,707,810 acres of land administratively available for oil and gas leasing. Nonetheless, Alternatives B, C, and D were all unique on account of differences in the protective measures, such as the lease stipulations, that would be applied and the presence, or not, of "no lease" areas in those alternatives.

In general, Alternative B constituted the alternative that would be the least restrictive to future oil and gas leasing and development operations and Alternative D represented the most restrictive leasing option (aside from Alternative A, the no lease alternative). Alternative C (the preferred and selected alternative) falls in between Alternatives B and D with respect to the general level

of restrictions that are imposed upon oil and gas lease operations. Implementation of Alternatives B, C, and D all would require amendments to the Fishlake and Dixie LRMPs.

3.1 Alternative A (No Action/No Lease)

Under Alternative A (FEIS section 2.2.1), no new oil and gas leases would be issued for the NFS lands administered by the Fishlake NF. The analysis for this alternative included two possible management actions, no action and a no lease action.

Under the no action alternative, management designations and activities pertaining to oil and gas leasing would continue unchanged pursuant to the existing LRMPs. Under the no lease action alternative, the Fishlake NF and the Dixie NF Forest Supervisors would issue decisions that formally render the analysis area for the FEIS unavailable for future oil and gas leasing. While the no action and the no lease action alternatives would involve procedural differences (i.e. the former would require decisions formally closing the analysis area to future leasing), the substantive leasing impacts would be the same under both action options. As such, the no action and the no lease action alternatives were combined in to Alternative A for the purposes of analysis.

Under the no action alternative, no new oil and gas leases would be issued within the analysis area for the FEIS because the applicable LRMPs, the Dixie LRMP and the Fishlake LRMP, were issued prior to the passage of the FOOGLRA and, as a result, these LRMPs lack the leasing analysis and leasing availability identification that FOOGLRA, and its implementing regulations at 36 CFR § 228.102(a)-(e), installed as mandatory prerequisites to the issuance of oil and gas leases on NFS lands. Likewise, under the no lease action alternative, decisions from the Forest Supervisors would prohibit future leasing within the analysis area for the FEIS. Thus, under both the no action and no lease action alternatives, the result would be that no new oil and gas leases would be issued for the NFS lands administered by the Fishlake NF.

3.2 Alternative B

Under Alternative B (FEIS section 2.2.2), the total land administratively available for oil and gas leasing is approximately 1,707,810 acres.

Of those lands identified as administratively for lease, approximately 878,369 acres (51% of the available lands) would be subject to the restrictions imposed by the SLT only, approximately 827,775 acres (49% of the available lands) would subject to the restrictions imposed by controlled surface use stipulations ("CSU"), and approximately 1,665 acres (less than 1% of the available lands) would subject to the restriction of no surface occupancy ("NSO").

Under this alternative, all lands administered by the Fishlake NF would be administratively available for leasing subject to the SLT only, with the exception of Mexican Spotted Owl ("MSO") Protected Activity Centers ("PACs") and Class I Airshed Areas, which would be subject to NSO and CSU restrictions, respectively, in addition to the SLT.

3.3 Alternative C (Preferred / Selected Alternative)

Alternative C (FEIS section 2.2.3) was the preferred alternative and the alternative selected by the USFS ROD, with the modifications previously discussed.

Under Alternative C, the total land administratively available for oil and gas leasing is approximately 1,707,810 acres.

Of those lands identified as administratively for lease, approximately 62,468 acres (4% of the available lands) would be subject to the restrictions imposed by the SLT only, approximately 82,359 acres (5% of the available lands) would subject to the restrictions imposed by timing limitation stipulations ("TL"), approximately 209,120 acres (12% of the available lands) would subject to the restrictions imposed by CSU, and approximately 1,353,863 acres (79% of the available lands) would subject to the restriction of NSO.

Under this alternative, all lands managed by the Fishlake NF would be administratively available for lease subject to the SLT and, where appropriate, additional constraints are imposed with lease stipulations, as identified in Appendix A of the FEIS, and as modified by the January 24 USFS Appeal Resolution Letter. Under Alternative C, a NSO stipulation would be applied in the following areas:

- All Research Natural Areas;
- Inventoried Roadless Areas;
- Quitchupah Canyon Cultural Area;
- Paradise Valley Cultural Resource Site;
- Old Spanish Trail Corridor;
- Areas with Steep Slopes (greater than 35% or North Horn sediment areas with slopes greater than 25%);
- Areas of Geologic Hazards or Unstable Soils;
- Areas within 1 Mile of Known Federal Threatened or Endangered Plant Locations;
- Areas within 1 Mile of Sensitive Plant Locations Covered by a Conservation Agreement;
- Areas within 300 Feet of Riparian Areas, Wetlands, Lakes, Reservoirs, Perennial Streams and Springs;
- Drinking Water Source Protection Zones – Zones 1 – 3, and T2 and T4;
- MSO PACs;
- Bald Eagle Winter Concentration Areas;
- Goshawk Core Nesting Areas;
- Within 4 Miles of Sage-grouse Leks;
- Known Colonies of Pygmy Rabbits;
- Key Habitat for Boreal Toad;
- Within ¼ Mile of Developed Recreation Sites and National Recreation Trails;
- Within ¼ Mile of Forest Service Administrative Sites and Facilities; and
- Frequently Viewed Areas of High Scenic Integrity.

Alternative C imposes a TL restriction in the following areas: Sage-grouse Brood Rearing Areas and Wintering Habitat; Crucial Elk and Mule Deer Winter Range, Calving and Fawning Areas;

and Bighorn Sheep Lambing and Winter Range. Lastly, under this alternative a CSU restriction would be applied in the following areas: Goshawk Post-fledging Areas; Active Raptor Nest Areas; and Class I Airshed Areas.

3.4 Alternative D

Alternative D (FEIS section 2.2.4) was developed in response to comment letters received from the Utah Environmental Congress ("UEC"), as well as other organization that partnered with the UEC during public scoping for the FEIS. This alternative was developed to include elements and components associated with those referenced in the comment letters from the UEC and its partner organizations. More specifically, this alternative emphasized the protection of non-mineral resources and uses over oil and gas exploration and development activities and the associated economic benefits. Comments submitted by environmental organizations other than UEC, sportsmen, and other groups and individuals that expressed an interest in emphasizing natural resource protection over oil and gas development were also addressed by this alternative.

Under Alternative D, the total land administratively available for oil and gas leasing is approximately 1,707,810 acres. However, under Alternative D, the USFS ROD and FEIS could not be used to authorize future oil and gas leasing on approximately 1,239,352 acres (73% of the available lands) of the land designated as administratively available for leasing. The aforementioned 1,239, 352 acres of land, which the USFS ROD and FEIS refer to as "no lease" areas, includes the following areas: Municipal Watersheds; Campground Water Systems; Threatened, Endangered, or Candidate Species Habitat; Key Habitat for the Boreal Toad; Research Natural Areas; Inventoried Roadless Areas; Suitable Wild and Scenic River Corridors; National Recreation Trails; and the Quitchipah Canyon Cultural Area.

Of the lands identified as administratively available for leasing that are outside of the "no lease" areas, approximately 32,002 acres (2% of the available lands) would be subject to the restrictions imposed by the SLT only, approximately 27,714 acres (1% of the available lands) would subject to the restrictions imposed by CSU, and approximately 408,740 acres (24% of the available lands) would subject to the restriction of NSO.

Alternative D also represented the environmentally preferred alternative. Under this alternative, there would be no new oil and gas leasing on approximately 1,239,352 acres of land within the analysis area for the FEIS.

3.5 Alternatives Considered But Eliminated From Detailed Analysis

As a result of comments made during the public scoping period for the FEIS project, the following alternative was considered and then dismissed from detailed analysis for the following reasons:

An alternative that would make all lands that are legally available for leasing administratively available to lease subject to a NSO restriction was considered, but then dismissed from detailed analysis. Alternatives B, C, and D all apply NSO restrictions to portions of the analysis area for the FEIS, but none of the three alternatives applied the NSO restriction across the entire analysis

area. In the case of Alternatives B, C, and D, the application of a NSO restriction was based upon specific resource protection needs and/or objectives. An alternative that indiscriminately applies a NSO restriction to all of the lands administered by the Fishlake NF would be neither reasonable nor justified and such an alternative would also not be consistent with BLM and USFS policies for mineral exploration and development.

4.0 Management Considerations and Rationale for the Decision

The BLM concurs with the rationale presented in the USFS ROD at pages 8-16 regarding the selection of Alternative C from the FEIS. As such, with this ROD, the BLM adopts the aforementioned USFS rationale as its own rationale.

The alternatives analyzed by the FEIS adequately addressed the wide range of resource values under the administration of the Fishlake NF, as well as the subsurface resources which the BLM is responsible for managing, and the selection of Alternative C, based upon the analysis in the FEIS, provided a management decision that was responsive to all substantive resource issues identified both internally and through public and interagency participation for the project.

The BLM also concurs with the determination by the USFS that, of the alternatives considered in the FEIS, Alternative C best met the purpose and need for action, as described in the USFS ROD, the FEIS and in this ROD at section 1.3. The BLM further concurs with the USFS determination that Alternative C represents the best balance between the need to protect natural resources and the need for the BLM and the USFS to meet their responsibilities with respect to oil and gas leasing for the NFS lands administered by the Fishlake NF. For example, in accordance with 36 CFR § 228.102, Alternative C makes a significant amount of land, approximately 1,707,801 acres, administratively available for oil and gas leasing, but, in doing so, it also imposes operational restrictions, such as the lease notices and stipulations identified in Appendix A of the FEIS and the January 24 USFS Appeal Resolution Letter, that will adequately protect other resource values for the subject NFS lands.

Upon a review of the USFS ROD, FEIS, and associated documents, the BLM concurs with the determination by the USFS at page 21 of the USFS ROD, which provides that the selected alternative (Alternative C) includes the appropriate mitigation and other protective measures needed to avoid or minimize environmental harms that may result from the implementation of the selected alternative. This determination was based upon, among other things, considerations of the known resources within the analysis area for the FEIS, the proportion and location of NSO restrictions applied within the analysis area, as well as the other protections that will be provided by way of the SLT, and TL and CSU restrictions imposed pursuant to the selected alternative.

5.0 Consultation and Consistency Review

5.1 Coordination and Consultation

The USFS consulted with several state and federal agencies in preparing the USFS ROD and FEIS. As previously noted, the BLM served as a cooperating agency in the preparation of the

NEPA documents for the project. In addition to the BLM (jurisdictional), the State of Utah (jurisdictional and special expertise) also participated as a cooperating agency, as described by 40 CFR § 1501.6 and § 1508.5, in the preparation of the NEPA documents for this project. More specifically, the State of Utah participated in the development of the project through its Department of Parks and Recreation, Division of Wildlife Resources, Division of Water Quality, Division of Oil, Gas and Mining, Division of Air Quality, and Division of Environmental Quality.

The Department of the Interior's United States Fish and Wildlife Service ("USFWS") and National Park Service were consulted and participated in the development of the alternatives addressed in the FEIS. Consultation with the USFWS for the project, as required by the Endangered Species Act ("ESA"), 16 USC §§ 1531 *et seq.*, has been completed and a Biological Opinion, dated January 19, 2012, was issued to the USFS for the project.

The United States Environmental Protection Agency ("EPA") also participated heavily in the development of the subject oil and gas leasing project by analyzing potential air quality issues and in reviewing the project's NEPA documents in accordance with requirements under the CEQ regulations. Any future oil and gas development activities within the analysis area for the FEIS would have to comply with the Clean Air Act, applicable air quality rules and regulations of the State of Utah, as well as any other applicable regulations of the EPA.

If appropriate and/or necessary, additional coordination and/or consultation (formal or informal) will occur in the future if and when the BLM submits a proposal to offer specific NFS lands for lease and/or if lands are leased and specific surface-disturbing operations are proposed through the APD process. All subsequent coordination and consultation will be conducted in accordance with the applicable laws, regulations and procedures of the interested parties.

5.1.1 Endangered Species Act Section 7 Consultation

Pursuant to the ESA, federal agencies are prohibited from authorizing, funding, or carrying out any action that is likely to "jeopardize" the continued existence of any endangered or threatened species or result in the "destruction or adverse modification" of critical habitat, as designated by the USFWS, for any species that has been "listed" as threatened or endangered pursuant to the ESA. 16 USC § 1536. Moreover, if a federal action is likely to adversely affect a species that has been listed pursuant to the ESA, or the critical habitat of any such species, the responsible federal agency must enter into formal consultation with the USFWS. *Id.* Species that are proposed or candidates for listing as threatened or endangered under the ESA and BLM-designated "sensitive" species are managed to prevent the future listing of such species as threatened or endangered under the ESA.

A Biological Assessment ("BA") was completed in connection with the subject Fishlake NF oil and gas leasing project in order to identify and evaluate the potential impacts to plant and animal species that could result from the implementation of alternatives considered in the FEIS. The findings of these evaluations have been summarized in Chapter 3 of the FEIS and in the BA prepared for the project.

As previously stated, consultation with the USFWS for the FEIS project, as required by the ESA, has been completed and a Biological Opinion, dated January 19, 2012, was issued to the USFS. In that Biological Opinion, the USFWS concurred with the findings of the above-referenced BA by stating that the subject leasing decisions for lands administered by the Fishlake NF were not likely to jeopardize the continued existence of the threatened and endangered species identified as present or potentially present within the analysis area for the FEIS. Based upon the findings in the BA, the Biological Opinion dated January 19, 2012, and the analysis in the FEIS, the USFS and the BLM (as documented with this ROD) have concluded that the decisions made by the USFS ROD and this ROD are in compliance with the ESA.

5.1.2 National Historic Preservation Act and Consultation with Tribes

Section 106 of the National Historic Preservation Act ("NHPA"), 16 USC § 470f, requires federal agencies to identify and consider the potential effects that federally funded or authorized "undertakings" may have on "historic properties" that are listed, or eligible for listing, on the National Register of Historic Places ("National Register"). In general, the "section 106 process" includes the following steps: (1) an identification of historic properties potentially impacted by a federal undertaking; (2) an assessment of the potential impacts to historic properties; and, (3) if adverse impacts to historic properties are anticipated, the development of a plan for avoiding or mitigating adverse impacts to historic properties. Federal agencies are also required to make a good faith effort to consult with Native American Tribes that attach religious or cultural significance to artifacts and/or areas that may be affected by a federal undertaking. 36 CFR §§ 800.2(c)(2)(ii) and 800.4(a)(1)(iii).

A phased approach to NHPA compliance, as provided for by 36 CFR § 800.4(b)(2) and § 800.5(a)(3), has been endorsed in situations where no-surface disturbing activity is to occur until the section 106 process is complete and, due to the programmatic nature of the subject undertaking, specific impacts are difficult to completely ascertain prior to the approval or proposal of a specific ground-disturbing action. *E.g., Southern Utah Wilderness Alliance*, 177 IBLA 89, 98 (2009) (citing *The Madan, Hidatas, and Arikara Nation*, 164 IBLA 343, 354-355 (2005)).

The leasing analysis associated with the FEIS and USFS ROD was programmatic in nature and, as such, it evaluated and addressed the reasonably foreseeable impacts to cultural resources in manner that was consistent with the objectives of that leasing analysis, which included making informed determinations as to which NFS lands should be made administratively available for oil and gas leasing and which NFS lands possess known cultural resource characteristics that should be protected by specific lease stipulations, if and when any of those lands are considered for specific oil and gas exploration and development operations.

The FEIS has identified and addressed the reasonably foreseeable impacts that future oil and gas leasing could have on known cultural resources within the analysis area for the FEIS. Areas that were known to contain culturally important resources, where the protections afforded by a lease stipulation would be appropriate, were identified in the FEIS and appropriate protections were identified and applied to those areas. Such areas included the Old Spanish Trail Corridor, the Paradise Valley Cultural Resource Site, and the Quitchupah Canyon Cultural Area. These areas

have all been placed under a NSO stipulation pursuant to the selected alternative (Alternative C), with modifications as identified in the January 24 USFS Appeal Resolution Letter.

For all lands that have been identified as administratively available for oil and gas leasing under the selected alternative, before any ground-disturbing activities associated with oil and gas development may occur, the USFS will identify and evaluate, for the specific lease areas where ground-disturbances are proposed, any cultural resources that will need specific avoidance or mitigation measures. Any potential site-specific impacts to cultural resources, which includes historic properties that are eligible for protection under the NHPA, will be analyzed and addressed in the site-specific NEPA analysis that would be required if and when the details of a specific oil and gas exploration and development project is proposed through the APD process. Furthermore, any oil and gas leases that are issued in the future in accordance with the decisions and analysis of the USFS ROD and FEIS will be issued with a standard lease notice, which the USFS has developed for the protection of cultural resources, attached. That lease notice requires that cultural resource surveys be completed and appropriate mitigation developed in order to protect any historic properties that are discovered during the site-specific surveys. In addition, under the SLT, the USFS and/or the BLM may require that proposed oil and gas facilities or operations be moved by up to 200 meters (656 feet) in order to avoid impacts to cultural resources.

In addition, the Fishlake NF and the Utah State Historic Preservation Office ("SHPO") have executed a programmatic agreement that will be implemented to further ensure that any future oil and gas leasing and development actions within the analysis area for the FEIS are conducted in accordance with the NHPA.

Consultation with the appropriate Native American Tribes occurred throughout and in conjunction with the NEPA process for this project. A list of the Tribes consulted for the project has been documented in the FEIS at section 4.0.

The USFS ROD and FEIS indicate that the reasonably foreseeable impacts to cultural resources that could result from oil and gas actions authorized pursuant to the selected alternative would be avoided or adequately mitigated at or prior to the commencement of any surface-disturbing operations through the application of the protective measures that are available pursuant to the selective alternative. Based upon an independent review of the analysis within the FEIS and USFS ROD, BLM concurs with the aforementioned determination by the USFS.

5.2 Consistency with State and Local Plans

Inconsistencies with state, county, or local plans were not identified.

6.0 Public Involvement

On July 7, 2006, an initial public scoping period for the oil and gas leasing project that is the subject of this ROD was commenced with the publication in the Federal Register of a Notice of Intent ("NOI") for the Fishlake NF Oil and Gas Leasing Analysis EIS project. The publication of this NOI initiated a formal 45-day public scoping period for the project.

In addition to the NOI, the USFS utilized several other methods and channels to notify the public about opportunities to become involved with and provide comments during public scoping for the Fishlake NF Oil and Gas Leasing Analysis EIS project. Information about the project has been listed in the Schedule of Proposed Actions ("SOPA"), which the USFS publishes on a quarterly basis in order to provide the public with information about proposed, soon-to-begin, and in-progress environmental analysis projects and documents, since April 1, 2006. In June 2006, public scoping information for the project was published in several newspapers that serve the general geographic area for the project, which included the *Garfield County Insider*, the *Millard County Chronicle Progress*, the *Wayne County Insider*, and the *Richfield Reaper*. A public breakout session regarding the project was conducted during the Dixie and Fishlake Forest Plan Forum held on June 28, 2006. On July 5, 2006, a legal notice informing the public of scoping for the project was again published in the *Richfield Reape*r, a weekly newspaper serving the project area and the designated newspaper of record for the project. Letters were sent to 250 individuals and organizations, and six public meetings were conducted in Beaver, Fillmore, Junction, Loa, Richfield, and Salina, Utah, regarding the project. Finally, due to the duration of time between the initial public scoping for the project and the release of the Draft Environmental Impact Statement ("DEIS") for the project, a supplemental NOI was published in the Federal Register on January 18, 2011.

On October 21, 2011, a Notice of Availability ("NOA") for the DEIS was published in the Federal Register, which commenced a formal 45-day public comment period for that document. Eight comment letters were received during the DEIS comment period. All of the comments were reviewed and considered by the USFS interdisciplinary team assembled for the project. Additionally, all of the comments have been recorded and responded to in detail in Appendix G of the FEIS. On account of comments about the air quality monitoring report that was referenced in the DEIS not being accessible, the USFS made that report available and published another NOA in the Federal Register on February 17, 2012, which extended the formal comment period for the DEIS for an additional 45-days.

The Forest Supervisors for the Fishlake and Dixie NFs signed the USFS ROD, which selected Alternative C from the FEIS, on August 20, 2013. On September 4, 2013, a legal notice for the USFS ROD and FEIS was published in the newspaper of record for the project. A NOA for the USFS ROD and FEIS was published in the Federal Register on September 13, 2013. On account of certain factors associated with the partial shutdown of the United States Government in October of 2013, an additional legal notice for the USFS ROD and FEIS was published in the newspaper of record on October 30, 2013.

In accordance with 36 CFR § 219.17(b)(3), an appeal, dated December 16, 2013, of the USFS ROD and FEIS was filed by WildEarth Guardians, Grand Canyon Trust and Western Resource Advocates. The aforementioned appeal filed by WildEarth Guardians, Grand Canyon Trust and Western Resource Advocates represented the only appeal of the USFS ROD and FEIS received by the USFS during the appeal period for those documents. As documented in a January 24, 2014, USFS letter (i.e. the "January 24 USFS Appeal Resolution Letter"), the appellants and the USFS ultimately reached an agreement whereby the aforementioned appeal would be resolved and withdrawn. In general, the agreement that resolved that appeal of the USFS ROD and FEIS

included the USFS providing clarifications as to the nature of the decision being made by the USFS ROD, as well as clarifications and modifications to the language for certain lease stipulations identified in the FEIS.[4] In a letter dated January 27, 2014, the appellants formally withdrew their appeal of the USFS ROD and FEIS, in its entirety, pursuant to the agreement described in the January 24 USFS Appeal Resolution Letter. In a letter dated January 30, 2014, the USFS formally accepted the letter from WildEarth Guardians, Grand Canyon Trust and Western Resource Advocates whereby the appellants formally withdrew the appeal of the USFS FEIS and ROD. This January 30, 2014, letter constituted the final administrative determination by the USFS for the appeal of the USFS ROD and FEIS. *See* 36 CFR § 215.18(c).

7.0 Appeals

This BLM ROD may be appealed to the Interior Board of Land Appeals ("IBLA") in accordance with the regulations contained in 43 CFR Part 4 and as described on the attached BLM Form 1842-1 (Attachment 2). In order for an appeal of this decision to be considered, a written notice of appeal must be filed with this office at Bureau of Land Management, Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101, with a copy to the Office of the Regional Solicitor, Intermountain Region, U.S. Department of the Interior at Federal Building Room 6201, 125 South State Street, Salt Lake City, Utah 84138, within 30-days from the date that this decision is signed by the Authorized Officer.

If you wish to file a petition for a stay pursuant to 43 CFR § 4.21 as to the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA, a petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification in accordance with the standards listed in 43 CFR § 4.21(b), which include:

(1) The relative harm to the parties if the stay is granted or denied;
(2) The likelihood of the appellant's success on the merits;
(3) The likelihood of irreparable harm if the stay is not granted; and
(4) Whether the public interest favors granting the stay.

If a petition for a stay is submitted with the notice of appeal, a copy of the notice of appeal and the petition for a stay must be served on each party named in the decision from which the appeal is taken, and with the IBLA at the same time that those documents are filed with the office of the Authorized Officer.

A copy of the notice of appeal, and a statement of reasons, as well as all other pertinent documents must be served on each adverse party named in the decision from which the appeal is taken and on the Office of the Regional Solicitor (at the address previously described), no later than 15-days after the filing of the document with the Authorized Officer and/or the IBLA.

Please direct any questions regarding this decision to Justin Abernathy, BLM Utah Fluid Minerals Leasing Coordinator, at 801-539-4067.

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[4] The January 24 USFS Appeal Resolution Letter identifies the specific modifications/clarifications that were made to stipulations as well as other aspects of the USFS ROD and FEIS in order to resolve the appeal of those documents.

8.0 Approval

In consideration of foregoing, I approve this BLM ROD with which the BLM formally adopts the USFS ROD and FEIS for Lands Administered by the Fishlake NF - Oil and Gas Leasing and concurs with the selection of Alternative C from the FEIS, as documented and modified by the USFS ROD and the January 24 USFS Appeal Resolution Letter.

FEB 1 0 2015

Authorized Officer

Date

Juan Palma
State Director
Bureau of Land Management - Utah
U.S. Department of the Interior

Attachments:

1. January 24 USFS Appeal Resolution Letter
2. BLM Form 1842-1

USDA United States Department of Agriculture | Forest Service | Fishlake National Forest Supervisor's Office Fax: (435) 896-9347 | 115 East 900 North Richfield, UT 84701 Phone: (435) 896-9233

File Code: 1950/2820
Date: January 24, 2014

Kevin Mueller
Utah-Southern Rockies Conservation Manager
WildEarth Guardians
1817 South Main Street, Suite 10
Salt Lake City, UT 84115

Dear Mr. Mueller:

Fishlake National Forest Oil and Gas Leasing Appeal Resolution
1/24/2014

The appellants filed an administrative appeal in accordance with 36 CFR 219.17 (b)(3) of the Forest Supervisor's August 20, 2013, decision. This decision amends the Fishlake National Forest LRMP to identify what lands are administratively available for oil and gas leasing, and the conditions and constraints under which available National Forest System (NFS) land may be leased. The decision also amends the Dixie National Forest LRMP for the Teasdale unit of the Dixie National Forest, now managed by the Fremont River Ranger District of the Fishlake National Forest, to identify what lands are administratively available for oil and gas leasing and the conditions and constraints under which available National Forest System (NFS) land may be leased.

We met with appellants in person on January 7th. We followed this up by sharing suggested changes through e-mail exchanges and conference calls on January 9th, 10th, 17th, and 22nd.

This documents our agreement on actions to resolve the appeal. This agreement applies to all the lands addressed by the Fishlake National Forest Oil and Gas Leasing Record of Decision and managed by the Fishlake National Forest, including those on the former Teasdale Ranger District of the Dixie National Forest.

Elements of Agreement for the Oil and Gas Leasing Record of Decision Appeal Resolution:

Air Quality

We have made minor corrections to clarify the Controlled Surface Use Stipulation – 03 Other Resources: Air Quality, and to the Lease Notice – Air Resources. The Controlled Surface Use Stipulation will apply to all lands administered by the Fishlake National Forest. The Lease Notice is corrected to require air quality impact analysis for proposals on all lands administered by the Fishlake National Forest.

Research Natural Areas

The Forest Service – Fishlake National Forest will begin the process to seek withdrawal of the four Research Natural Areas located on lands administered by the Forest Service from mineral entry. The final determination on withdrawal will be made by the Bureau of Land Management. Within one year, the Forest Service will initiate scoping associated with the withdrawal proposal

and will then prepare the appropriate NEPA and supporting decision documents. During this process the Forest Service will meet with appellants about once every six months to provide a progress update. Such meetings will be informal, open, and public. They may be via conference call or in-person. Until the areas are withdrawn, the Forest Service will not authorize leasing of these lands under 36 CFR 228(e).

Sage Grouse

We have made minor corrections to No Surface Occupancy Stipulation – 09 to remove any exceptions, modification, or waivers to the No Surface Occupancy within 4 miles of a sage grouse lek.

Clarification on No Surface Occupancy Stipulations

We have made minor corrections to No Surface Occupancy Stipulations – 03 Watershed Resources: Riparian Areas, 04 Watershed Resources: Delineated Wetlands, 15 Inventoried Roadless Areas, 16 Recreation: Developed Recreation sites and National Recreation Trails and, 18 Other Resources: Forest Service Administrative Sites and Facilities. The changes remove confusing language about the construction of roads, pipelines, and similar facilities.

Cultural Resources

We have made minor corrections to the Lease Notice for Cultural Resources. In summary, site specific field surveys will be required for all activities. The minimum level of survey will be to walk the center line/preliminary line of all proposed roads and pipelines and visit each proposed well pad site. Additional level of survey detail above this will be identified in the project specific MOA with the State of Utah SHPO.

As an example to clarify what this correction may mean on the ground, a proposal for oil and gas development in an area with some previous cultural resource surveys and known to have very few sites, the required survey may only be to walk the proposed road alignment. In a case where we know there is a high density of cultural sites the required surveys would include the road alignment and other locations close by that might be impacted, such as searching nearby cliffs for pictographs or petroglyphs.

Clarification on the Oil and Gas Leasing Reform Act

I confirm that this decision only identifies the NFS land administratively available for leasing in accordance with 36 CFR 228.102(d). This decision does not authorize the BLM to lease specific lands, or offer specific lands for leasing under 36 CFR 228.102(e).

Sensitive and MIS species

We have made minor corrections to the Lease Notice for Sensitive and MIS species (Plants and Vertebrate Wildlife): The corrections identify that ground disturbing activities will not occur within one mile of known Sensitive and MIS plant locations, unless there is scientific evidence that ground disturbing activities would be exclusively on lands that are not habitat for the species.

For sensitive wildlife species that do not have their own conservation agreement(s), no ground disturbing activities will occur within one-half mile of known locations unless there is scientific

evidence that surface occupancy within that half mile would be exclusively on lands that are not habitat for the species and the actions are consistent with Forest Service sensitive species policy.

For MIS wildlife species, any ground disturbing activities will be consistent with direction in the applicable National Forest Land and Resource Management Plan.

Agreement

In consideration of the foregoing, appellants WildEarth Guardians, Grand Canyon Trust, and Western Resource Advocates have agreed to withdraw their administrative appeal in its entirety. The commitments above are contingent upon withdrawal of the appeal by WildEarth Guardians, Grand Canyon Trust, and Western Resource Advocates in its entirety by written instrument, transmitted to the Appeal Deciding Officer in accordance with the appeal regulations not later than January 29, 2014.

ALLEN ROWLEY
Forest Supervisor, Fishlake National Forest

ANGELITA S. BULLETS
Forest Supervisor, Dixie National Forest

KEVIN MUELLER
WildEarth Guardians

Mary H. O'Brien

MARY O'BRIEN
Grand Canyon Trust

JORO WALKER
Western Resource Advocates

cc: Angelita S Bulletts, Allen Rowley

CONTROLLED SURFACE USE STIPULATION – 03

Other Resources: Air Quality

Controlled Surface Use Relating to Air Quality

Where: For exploratory and production projects within the boundaries of land administered by the Fishlake N.F.

For the purpose of: Protection of air resources within the Forest to meet or exceed FLAG guidelines.

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

Operations must be located and/or designed to not cause or contribute to adverse impacts to air quality related values. Operators will be expected to use appropriate Best Available Control Technology (BACT) to reduce impacts to air quality and air quality related values by reducing emissions from field production and operations. Development of the lease parcels may be subject to appropriate mitigation and conditions of approval (COAs) to reduce or mitigate air resource impacts and GHG emissions.

To ensure meeting this purpose, an air impact analysis would be required prior to any field activity to demonstrate that proposed operations will not result in exceedances of the air standards as outlined in the most recent FLAG guidance, including Clean Air Act increment and NAAQ standards.

Typical design and mitigation measures include but are not limited to: use of Tier IV or better engines, use of low sulfur fuels, electrification of well fields, flaring hydrocarbon and gases at high temperatures in order to reduce emissions of incomplete combustion; water dirt roads during periods of high use in order to reduce fugitive dust emissions; require that vapor recovery systems be maintained and functional in areas where petroleum liquids are stored; minimize roads and re-vegetate areas of the pad not required for production facilities to reduce the amount of dust from the pads.

Exception: None
Modification: None
Waiver: None

NO SURFACE OCCUPANCY STIPULATION – 03

Watershed Resources: Riparian Areas

No Surface Occupancy for Riparian Areas

Where: Within 300 feet of Forest Service delineated boundary of riparian areas.

For the Purpose Of: Protecting riparian ecosystems. Riparian ecosystems are managed by the Forest Service to protect from conflicting uses in order to provide healthy, self-perpetuating plant and water communities that will have optimum diversity and density of understory and overstory vegetation.

Exceptions: An exception could be authorized if: (a) an on-site review determines the area proposed to be impacted is not riparian; and (b) any additional mitigation that is determined to be necessary is fully implemented. Locate roads outside of riparian area unless alternative routes have been reviewed and rejected as being more environmentally damaging.

Modification: None

Waiver: None

NO SURFACE OCCUPANCY STIPULATION – 04

Watershed Resources: Delineated Wetlands

No Surface Occupancy for Delineated Wetlands

Where: Within 300 feet of delineated and mapped boundary of jurisdictional wetlands.

For the Purpose Of: Protecting jurisdictional wetlands relative to Executive Order 11990, and the associated habitats, water quality, and ecosystems associated with these areas.

Exceptions: An exception could be authorized if: (a) an on-site review determines the area proposed to be impacted is not a jurisdictional wetland; and (b) any additional mitigation that is determined to be necessary is fully implemented.

Modification: None

Waiver: None

NO SURFACE OCCUPANCY STIPULATION – 09

Wildlife and Plant Species: Greater Sage Grouse Leks

No Surface Occupancy in Sage Grouse Leks

Where: Within 4 miles of sage grouse leks delineated and mapped by the Forest Service.

For the purpose of: Protecting breeding and brood-rearing sage grouse from predation, habitat fragmentation, and disturbance.

Exceptions: None

Modifications: None

Waivers: None

NO SURFACE OCCUPANCY STIPULATION – 15

Inventoried Roadless Areas: Inventoried Roadless Areas

No Surface Occupancy in Inventoried Roadless Areas

Where: Within the boundary of all Inventoried Roadless Areas.

For the Purpose Of: Protecting the roadless and wilderness characteristics of these lands.

Exception: None

Modification: None

Waiver: None

NO SURFACE OCCUPANCY STIPULATION – 16

Recreation: Developed Recreation Sites and National Recreation Trails

No Surface Occupancy for Developed Recreation Areas and National Recreation Trails

Where: Within ¼ mile of developed recreation sites and national recreation trails.

For the Purpose Of: Protecting the capital investment and recreation uses associated with these sites.

Exception: None

Modification: A modification may be granted if a portion of the developed recreation sites in the leasehold are moved or eliminated.

Waiver: A waiver may be granted if all the developed recreation site(s) in the leasehold are moved or eliminated.

NO SURFACE OCCUPANCY STIPULATION – 18

Other Resources: Forest Service Administrative Sites and Facilities

No Surface Occupancy for Administrative Sites

Where: Within ¼ mile of Forest Service administrative sites.

For the Purpose Of: Protecting the capital investment and uses associated with administrative sites.

Exception: None

Modification: A modification may be granted if a portion of the administrative site(s) in the leasehold are moved or eliminated.

Waiver: A waiver may be granted if all the administrative site(s) in the leasehold are moved or eliminated.

LEASE NOTICE – Air Resources

(Clean Air Act of 1963, as amended by P.L. 90-148, P.L. 91-604, and P.L. 101-549; National and State of Utah Ambient Air Quality Standards, National Standards of Performance for New Stationary Sources, National Prevention of Significant Deterioration Standards, National Emissions Standards for Hazardous Air Pollutants, Utah Air Conservation Regulations (R446), and Utah State Implementation Plan)

1. The operator shall comply with the following practices to control impacts to ambient air quality from oil and gas exploration and production activities:

a. As appropriate, quantitative analysis of potential air quality impacts will be conducted for project specific developments by the operator, in concert with direction from the Utah Department of Environmental Quality, Division of Air Quality (UDAQ), the Forest Service and cooperating federal land management agencies including but not limited to the National Park Service. The Forest Service and/or Bureau of Land Management will work with cooperating agencies as project specific proposals are received ensuring that appropriate air impact analyses are performed and limits or mitigation measures needed to ensure compliance with authorities listed in first paragraph of this Lease Notice are incorporated. Additional project specific air impact analyses would need to be conducted if one or more of the following project criteria are fulfilled:

> i. For exploration drilling projects, depending upon various factors including the size of the proposed development and estimated emissions, proposed air quality related value (AQRV) impacts would need to be estimated. Additional air impact analyses, consistent with the Clean Air Act, may be necessary following the guidance found in the FLAG modeling guidelines and the Clean Air Act.
>
> ii. For production drilling projects, depending upon various factors including the size of the proposed development and estimated emissions, for production projects a quantitative air quality impact analysis following the guidance found in the FLAG modeling guidelines may be required.
>
> iii. If an exploratory or development project which has estimated emissions exceeding those modeled with the Fishlake N.F. Oil and Gas Leasing Analysis, consultation between the Forest Service and cooperating Federal Agencies would occur to determine an appropriate assessment of air quality impacts. The level of additional analysis would be predicated on the size of the proposed project.

b. If model and/or analysis results associated with subparts i through iii above estimate exceedances of limits required by laws, rules or regulations including those listed in paragraph 1 of this Lease Notice, mitigation measures and/or limits will be required.

b. Compliance with Utah Air Conservation (UAC) Regulation R446-1 would be necessary. The best air quality control technology, as per guidance from the UDAQ, will be applied to actions as needed to meet air quality standards.

c. The operator will comply with UAC Regulation R446-1-4.5.3, which prohibits the use, maintenance, or construction of roadways without taking appropriate dust abatement measures. Compliance will be obtained through special stipulations as a requirement on new projects and through the use of dust abatement control techniques in problem areas.

d. The operator will manage authorized activities to ensure compliance with State of Utah Ambient Air Quality Standards and to ensure that those activities protect Class I air associated with adjacent National Parks including Capitol Reef National Parks, and all Class II air.

e. The operator will utilize BMPs and site specific mitigation measures, when appropriate, based on-site specific conditions, to reduce emissions and enhance air quality. Examples of these types of measures can be found in the Four Corners Air Quality Task Force Report of Mitigation Options, November 1, 2007; EPA Natural Gas STAR Program (http://www.epa.gov/gasstar/); and US Forest Service Emission Reduction Techniques for Oil and Gas activities 2011 (http://www.fs.fed.us/air/documents/EmissionReduction- 010711x.pdf).

g. The operator will comply with the Conditions of Approval for Applications for Permit to Drill, which include but are not necessarily limited to:

(1) All new and replacement internal combustion diesel fired drilling engines must meet or exceed Tier II emissions limits as codified in 40 CFR Part 89 -"Control of Emissions From New and In-Use Nonroad Compression-Ignition Engines".

2. All new and replacement internal combustion diesel fired well pump engines must meet or exceed Tier II emissions limits for Particulate Matter and Tier III emissions limits for Oxides of Nitrogen and Carbon Monoxide as codified in 40 CFR Part 89 - "Control of Emissions From New and In-Use Non-road Compression-Ignition Engines".

3. All new and replacement spark ignited natural gas fired internal combustion well-pump engines must meet or exceed emissions limits for Oxides of Nitrogen, Carbon Monoxide and Volatile Organic Compounds from New Source Performance Standard Subpart JJJJ for Stationary Spark Ignition Internal Combustion Engines manufactured since 2008.

4. All new and replacement internal combustion gas field engines of less than or equal to 300 design-rated horsepower must not emit more than 2 grams of NOx per horsepower-hour. (This requirement does not apply to gas field engines of less than or equal to 40 designated horsepower).

5. All new and replacement internal combustion gas field engines of greater than 300 design rated horsepower must not emit more than 1.0 grams of NOx per horsepower-hour.

6. All diesel fuel fired internal combustion engines must utilize certified Ultra Low Sulfur Diesel fuel with a maximum sulfur content of 15 parts per million (PPM).

a. Lease holders will need to conduct detailed volatile organic compound (VOC) emissions inventories for any proposed facilities to provide necessary data to the BLM Utah State Office for their regional photochemical modeling.
b. Lease holders will need to examine the use of additional mitigations for ozone precursors.

LEASE NOTICE – Cultural Resources

(National Historic Preservation Act of 1966 (NHPA), P.L. 89-665 as amended by P.L. 94- 422, P.L. 94-458, and P.L. 96-515):

The Forest Service authorized officer is responsible for ensuring that the leased lands are examined prior to the undertaking of any ground-disturbing activities to determine whether or not cultural resources are present, and to specify mitigation measures for effects on cultural resources that are found to be present.

The lessee or operator shall contact the Forest Service to determine the level of on-site cultural resource inventory required prior to undertaking any surface-disturbing activities on Forest Service lands covered by this lease. Site specific cultural resource inventories will be required for exploratory and production facilities. The minimum level of survey will be to walk the center line/preliminary line for all roads and pipelines and visit each well pad. Additional level of survey detail above this will be identified in the project specific MOA with the State of Utah SHPO with consideration of site richness in the area and potential for off-site impacts.

The lessee or operator may engage the services of a cultural resource specialist acceptable to the Forest Service to conduct any necessary cultural resource inventory of the area of proposed surface disturbance. In consultation with the Forest Service authorized officer, the lessee or operator may elect to conduct an inventory of a larger area to allow for alternative or additional areas of disturbance that may be needed to accommodate other resource needs or operations.

The lessee or operator shall implement mitigation measures required by the Forest Service to preserve or avoid destruction of cultural resource values. Mitigation may include relocation of proposed facilities, testing, salvage, and recordation or other protective measures.

During the course of actual surface operations on Forest Service lands associated with this lease, the lessee or operator shall immediately bring to the attention of the Forest Service the discovery of any cultural or paleontological resources. The lessee or operator shall leave such discoveries intact until directed to proceed by Forest Service.

LEASE NOTICE - Sensitive and MIS Species (Plants and Vertebrate Wildlife)

The Lessee/Operator is given notice that the lands in this parcel contain suitable habitat for sensitive, and/or management indicator species (MIS). The following avoidance and minimization measures have been developed to facilitate locating and designing operations to avoid adverse effects to the viability of these species.

Prior to conducting any surface disturbing activities within suitable habitat for sensitive and Management Indicator Species (MIS), surveys will be completed.

No ground disturbing activities will occur within one mile of known Sensitive and MIS plant locations unless there is scientific evidence that surface occupancy within that mile would be exclusively on lands that are not habitat for the sensitive species and additional non-direct impacts are not likely to impair the adjacent Sensitive and MIS plant communities.

For sensitive wildlife species that do not have their own conservation agreement(s) no ground disturbing activities will occur within one-half mile of known locations unless there is scientific evidence that surface occupancy within that half mile would be exclusively on lands that are not habitat for the species and the actions are consistent with Forest Service sensitive species policy.

For MIS wildlife species any ground disturbing activities will be consistent with direction in the applicable National Forest Land and Resource Management Plan.

NO SURFACE OCCUPANCY STIPULATION – 03
Watershed Resources: Riparian Areas

No Surface Occupancy for Riparian Areas

Where: Within 300 feet of Forest Service delineated boundary of riparian areas.

For the Purpose Of: Protecting riparian ecosystems. Riparian ecosystems are managed by the Forest Service to protect from conflicting uses in order to provide healthy, self-perpetuating plant and water communities that will have optimum diversity and density of understory and overstory vegetation.

Exceptions: An exception could be authorized if: (a) an on-site review determines the area proposed to be impacted is not riparian; and (b) any additional mitigation that is determined to be necessary is fully implemented. Locate roads outside of riparian area unless alternative routes have been reviewed and rejected as being more environmentally damaging.

Modification: None

Waiver: None

NO SURFACE OCCUPANCY STIPULATION – 04
Watershed Resources: Delineated Wetlands

No Surface Occupancy for Delineated Wetlands

Where: Within 300 feet of delineated and mapped boundary of jurisdictional wetlands.

For the Purpose Of: Protecting jurisdictional wetlands relative to Executive Order 11990, and the associated habitats, water quality, and ecosystems associated with these areas.

Exceptions: An exception could be authorized if: (a) an on-site review determines the area proposed to be impacted is not a jurisdictional wetland; and (b) any additional mitigation that is determined to be necessary is fully implemented.

Modification: None

Waiver: None

NO SURFACE OCCUPANCY STIPULATION – 09
Wildlife and Plant Species: Greater Sage Grouse Leks

No Surface Occupancy in Sage Grouse Leks

Where: Within 4 miles of sage grouse leks delineated and mapped by the Forest Service.

For the purpose of: Protecting breeding and brood-rearing sage grouse from predation, habitat fragmentation, and disturbance.

Exceptions: None

Modifications: None

Waivers: None

NO SURFACE OCCUPANCY STIPULATION – 15
Inventoried Roadless Areas: Inventoried Roadless Areas

No Surface Occupancy in Inventoried Roadless Areas

Where: Within the boundary of all Inventoried Roadless Areas.

For the Purpose Of: Protecting the roadless and wilderness characteristics of these lands.

Exception: None

Modification: None

Waiver: None

NO SURFACE OCCUPANCY STIPULATION – 16
Recreation: Developed Recreation Sites and National Recreation Trails

No Surface Occupancy for Developed Recreation Sites and National Recreation Trails

Where: Within ¼ mile of developed recreation sites and national recreation trails.

For the Purpose Of: Protecting the capital investment and recreation uses associated with these sites.

Exception: None

Modification: A modification may be granted if a portion of the developed recreation sites in the leasehold are moved or eliminated.

Waiver: A waiver may be granted if all the developed recreation site(s) in the leasehold are moved or eliminated.

NO SURFACE OCCUPANCY STIPULATION – 18
Other Resources: Forest Service Administrative Sites and Facilities

No Surface Occupancy for Administrative Sites

Where: Within ¼ mile of Forest Service administrative sites.

For the Purpose Of: Protecting the capital investment and uses associated with administrative sites.

Exception: None

Modification: A modification may be granted if a portion of the administrative site(s) in the leasehold are moved or eliminated.

Waiver: A waiver may be granted if all the administrative site(s) in the leasehold are moved or eliminated.

CONTROLLED SURFACE USE STIPULATION – 03
Other Resources: Air Quality

Controlled Surface Use Relating to Air Quality

Where: For exploratory and production projects within the boundaries of land administered by the Fishlake N.F.

For the purpose of: Protection of air resources within the Forest to meet or exceed FLAG guidelines.

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

Operations must be located and/or designed to not cause or contribute to adverse impacts to air quality related values. Operators will be expected to use appropriate Best Available Control Technology (BACT) to reduce impacts to air quality and air quality related values by reducing emissions from field production and operations. Development of the lease parcels may be subject to appropriate mitigation and conditions of approval (COAs) to reduce or mitigate air resource impacts and GHG emissions.

To ensure meeting this purpose, an air impact analysis would be required prior to any field activity to demonstrate that proposed operations will not result in exceedances of the air standards as outlined in the most recent FLAG guidance, including Clean Air Act increment and NAAQ standards.

Typical design and mitigation measures include but are not limited to: use of Tier IV or better engines, use of low sulfur fuels, electrification of well fields, flaring hydrocarbon and gases at high temperatures in order to reduce emissions of incomplete combustion; water dirt roads during periods of high use in order to reduce fugitive dust emissions; require that vapor recovery systems be maintained and functional in areas where petroleum liquids are stored; minimize roads and re-vegetate areas of the pad not required for production facilities to reduce the amount of dust from the pads.

Exception: None
Modification: None
Waiver: None

LEASE NOTICE – Cultural Resources

(National Historic Preservation Act of 1966 (NHPA), P.L. 89-665 as amended by P.L. 94- 422, P.L. 94-458, and P.L. 96-515):

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For MIS wildlife species any ground disturbing activities will be consistent with direction in the applicable National Forest Land and Resource Management Plan.

LEASE NOTICE - Air Resources

(Clean Air Act of 1963, as amended by P.L. 90-148, P.L. 91-604, and P.L. 101-549;
National and State of Utah Ambient Air Quality Standards, National Standards of Performance for New Stationary Sources, National Prevention of Significant Deterioration Standards, National Emissions Standards for Hazardous Air Pollutants, Utah Air Conservation Regulations (R446), and Utah State Implementation Plan)

1. The operator shall comply with the following practices to control impacts to ambient air quality from oil and gas exploration and production activities:

a. As appropriate, quantitative analysis of potential air quality impacts will be conducted for project specific developments by the operator, in concert with direction from the Utah Department of Environmental Quality, Division of Air Quality (UDAQ), the Forest Service and cooperating federal land management agencies including but not limited to the National Park Service. The Forest Service and/or Bureau of Land Management will work with cooperating agencies as project specific proposals are received ensuring that appropriate air impact analyses are performed and limits or mitigation measures needed to ensure compliance with authorities listed in first paragraph of this Lease Notice are incorporated. Additional project specific air impact analyses would need to be conducted if one or more of the following project criteria are fulfilled:

> i. For exploration drilling projects, depending upon various factors including the size of the proposed development and estimated emissions, proposed air quality related value (AQRV) impacts would need to be estimated. Additional air impact analyses, consistent with the Clean Air Act, may be necessary following the guidance found in the FLAG modeling guidelines and the Clean Air Act.
>
> ii. For production drilling projects, depending upon various factors including the size of the proposed development and estimated emissions, for production projects a quantitative air quality impact analysis following the guidance found in the FLAG modeling guidelines may be required.

iii. If an exploratory or development project which has estimated emissions exceeding those modeled with the Fishlake N.F. Oil and Gas Leasing Analysis, consultation between the Forest Service and cooperating Federal Agencies would occur to determine an appropriate assessment of air quality impacts. The level of additional analysis would be predicated on the size of the proposed project.

b. If model and/or analysis results associated with subparts i through iii above estimate exceedances of limits required by laws, rules or regulations including those listed in paragraph 1 of this Lease Notice, mitigation measures and/or limits will be required.

b. Compliance with Utah Air Conservation (UAC) Regulation R446-1 would be necessary. The best air quality control technology, as per guidance from the UDAQ, will be applied to actions as needed to meet air quality standards.

c. The operator will comply with UAC Regulation R446-1-4.5.3, which prohibits the use, maintenance, or construction of roadways without taking appropriate dust abatement measures. Compliance will be obtained through special stipulations as a requirement on new projects and through the use of dust abatement control techniques in problem areas.

d. The operator will manage authorized activities to ensure compliance with State of Utah Ambient Air Quality Standards and to ensure that those activities protect Class I air associated with adjacent National Parks including Capitol Reef National Parks, and all Class II air.

e. The operator will utilize BMPs and site specific mitigation measures, when appropriate, based on-site specific conditions, to reduce emissions and enhance air quality. Examples of these types of measures can be found in the Four Corners Air Quality Task Force Report of Mitigation Options, November 1, 2007; EPA Natural Gas STAR Program (http://www.epa.gov/gasstar/); and US Forest Service Emission Reduction Techniques for Oil and Gas activities 2011 (http://www.fs.fed.us/air/documents/EmissionReduction- 010711x.pdf).

g. The operator will comply with the Conditions of Approval for Applications for Permit to Drill, which include but are not necessarily limited to:

(1) All new and replacement internal combustion diesel fired drilling engines must meet or exceed Tier II emissions limits as codified in 40 CFR Part 89 -"Control of Emissions From New and In-Use Nonroad Compression-Ignition Engines".

2. All new and replacement internal combustion diesel fired well pump engines must meet or exceed Tier II emissions limits for Particulate Matter and Tier III emissions limits for Oxides of Nitrogen and Carbon Monoxide as codified in 40 CFR Part 89 - "Control of Emissions From New and In-Use Non-road Compression-Ignition Engines".

3. All new and replacement spark ignited natural gas fired internal combustion well-pump engines must meet or exceed emissions limits for Oxides of Nitrogen, Carbon Monoxide and Volatile Organic Compounds from New Source Performance Standard Subpart JJJJ for Stationary Spark Ignition Internal Combustion Engines manufactured since 2008.

4. All new and replacement internal combustion gas field engines of less than or equal to 300 design-rated horsepower must not emit more than 2 grams of NOx per horsepower-hour. (This requirement does not apply to gas field engines of less than or equal to 40 designated horsepower).

5. All new and replacement internal combustion gas field engines of greater than 300 design rated horsepower must not emit more than 1.0 grams of NOx per horsepower-hour.

6. All diesel fuel fired internal combustion engines must utilize certified Ultra Low Sulfur Diesel fuel with a maximum sulfur content of 15 parts per million (PPM).

a. Lease holders will need to conduct detailed volatile organic compound (VOC) emissions inventories for any proposed facilities to provide necessary data to the BLM Utah State Office for their regional photochemical modeling.
b. Lease holders will need to examine the use of additional mitigations for ozone precursors.

Form 1842-1
(September 2006)

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS
1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL..... A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the *Notice of Appeal* in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a *Notice of Appeal* in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).

2. WHERE TO FILE

NOTICE OF APPEAL..... Bureau of Land Management, Utah State Office, 440 West 200 South, Suite 500, Salt Lake City, Utah 84101-1345

WITH COPY TO SOLICITOR... Regional Solicitor, Intermountain Region, Federal Building Room 6201, 125 South State Street, Salt Lake City, Utah 84138

3. STATEMENT OF REASONS Within 30 days after filing the *Notice of Appeal*, file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the *Notice of Appeal*, no additional statement is necessary (43 CFR 4.412 and 4.413).

WITH COPY TO SOLICITOR..... Regional Solicitor, Intermountain Region, Federal Building Room 6201, 125 South State Street, Salt Lake City, Utah 84138

4. ADVERSE PARTIES..... Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the *Notice of Appeal*, (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).

5. PROOF OF SERVICE..... Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).

6. REQUEST FOR STAY..... Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a *Notice of Appeal* (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your *Notice of Appeal* (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the *Notice of Appeal* and Petition for a Stay **must** also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (43 CFR 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay. Except as otherwise provided by law or other pertinent regulations, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards: (1) the relative harm to the parties if the stay is granted or denied, (2) the likelihood of the appellant's success on the merits, (3) the likelihood of immediate and irreparable harm if the stay is not granted, and (4) whether the public interest favors granting the stay.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

(Continued on page 2)

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ---------- Alaska
Arizona State Office --------- Arizona
California State Office ------- California
Colorado State Office -------- Colorado
Eastern States Office --------- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ---------- Idaho
Montana State Office --------- Montana, North Dakota and South Dakota
Nevada State Office ---------- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ---------- Oregon and Washington
Utah State Office ---------- Utah
Wyoming State Office -------- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

(Form 1842-1, September 2006)