

Previously Issued Oil and Gas Leases in the White River National Forest

Record of Decision

November 17, 2016

Record of Decision: BLM/CO/PL-17/001

Cooperating Agencies:

U.S. Forest Service, White River National Forest
U.S. Environmental Protection Agency, Region 8
Colorado Division of Natural Resources, Colorado
Parks and Wildlife
Garfield County
Mesa County
Pitkin County
Rio Blanco County
City of Glenwood Springs
City of Rifle
Town of Carbondale
Town of New Castle
Town of Parachute
Town of Silt

Colorado River Valley Field Office
2300 River Frontage Road
Silt CO 81652
Phone: 970-876-9000
Fax: 970-876-9090



BLM Mission Statement: *To sustain the health, diversity, and productivity of America's public lands for the use and enjoyment of present and future generations.*

The BLM's multiple-use mission, set forth in the Federal Land Policy and Management Act of 1976, mandates that we manage public land resources for a variety of uses, such as energy development, livestock grazing, recreation, and timber harvesting, while protecting a wide array of natural, cultural, and historical resources.

PREVIOUSLY ISSUED LEASES ON THE WHITE RIVER NATIONAL FOREST

RECORD OF DECISION

BLM/CO/PL-17/001

Bureau of Land Management
Colorado River Valley Field Office
Silt, Colorado

Cooperating Agencies:

U.S. Forest Service, White River National Forest
U.S. Environmental Protection Agency, Region 8
Colorado Division of Natural Resources, Colorado Parks and Wildlife
Garfield County
Mesa County
Pitkin County
Rio Blanco County
City of Glenwood Springs
City of Rifle
Town of Carbondale
Town of New Castle
Town of Parachute
Town of Silt

This page is intentionally left blank

SUMMARY

The Bureau of Land Management (BLM) Colorado River Valley Field Office (CRVFO) in Silt, Colorado, prepared an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act of 1969, as amended (NEPA) to analyze the potential impacts of cancelling, reaffirming, or modifying (with additional or different terms) 65 voidable federal fluid minerals leases within the White River National Forest (WRNF). These leases were issued between 1995 and 2012, and are located in Mesa, Garfield, Pitkin, and Rio Blanco counties, between the towns of De Beque and Carbondale south of Interstate 70, except for one lease northeast of Meeker. This Record of Decision (ROD) and BLM's Final EIS only considers the 65 previously leased parcels. It does not address future leasing availability in the WRNF as those decisions are made by the United States Forest Service (Forest Service). The Forest Service most recently addressed future leasing in the WRNF in a separate NEPA analysis—the WRNF Oil and Gas Leasing Final EIS published in December 2014 and subsequent ROD, issued in December 2015.

BLM initiated its NEPA process for the previously issued leases on April 2, 2014, with a Notice of Intent (NOI) to prepare an EIS that was published in the Federal Register (Vol. 79, No. 63, pages 18576 to 18577). The BLM hosted four scoping meetings in April and May 2014. The BLM received 32,318 scoping comment submissions (or “comments”), the majority of which were form letters. All comments were considered in preparation of the Draft EIS. Five alternatives were developed for the Draft EIS in response to issues and concerns identified during the public scoping period, coordination with Cooperating Agencies, and interaction with BLM management and resource specialists. The Draft EIS also considers alternatives identified during scoping that were not carried forward for detailed analysis. As part of its analysis, the Draft EIS analysis considered the potential impacts of reasonably foreseeable future development of some, or all, of the 65 previously issued leases. The basis for that analysis was the 2010 WRNF Reasonably Foreseeable Development Scenario. The EIS evaluated direct, indirect, and cumulative impacts.

On November 20, 2015, a Notice of Availability (NOA) of the Draft EIS was published in the Federal Register, initiating a public comment period that ended on January 8, 2016 (Vol. 80, No. 224, pages 72733 to 72734). During the public comment period, public meetings were held in Glenwood Springs, De Beque, and Carbondale, Colorado. The BLM received a total of 60,529 comments, the majority of which were form letters. All comments received were considered in preparing the Final EIS. Substantive comments and corresponding responses are provided in Appendix E of the Final EIS. The BLM's selection of a Preferred Alternative in the Final EIS was based on BLM's NEPA analysis as well as all public and agency comments received during the Draft EIS comment period. The BLM shared a preliminary preferred alternative for inclusion in the Final EIS with cooperators on February 10, 2016. Input received in response to that alternative was also considered in preparing the Final EIS.

On August 5, 2016, a NOA announcing the availability of the Final EIS was published in the Federal Register (Volume 81, No. 51936 / 8/5/2016, page 51936). The BLM received over 60,000 comments following the publication of the Final EIS. Again, most of the comments received were form letters containing identical or near-identical text submitted by multiple individuals. All of these comments were reviewed and considered to the extent practicable in preparing this ROD (see **Attachment 5**). None of these comments identified or presented any significant new information that would warrant additional analysis under NEPA. All of the public comments received can be found in the Administrative Record of the EIS at the BLM CRVFO. The Final EIS is available on the BLM ePlanning website at: https://eplanning.blm.gov/epl-front-office/eplanning/nepa/nepa_register.do.

This ROD selects a slightly modified version of the Preferred Alternative as the final decision of the BLM. The decisions made by this ROD reflect a careful consideration of agency and public comments (including affected lessees), best meet BLM's mandate to protect important resources while allowing oil and gas development, and respect the Forest Service's most recent decision about leasing in the WRNF. Under the

decision, as explained below, BLM will reaffirm 24 leases, modify 13 leases, and cancel 25 leases. Of these, the decisions on 5 leases are provisional decisions for expired leases subject to appeal (4 reaffirmed leases and 1 modified lease). In addition, no decision is made for 1 lease that expired and is not subject to appeal, and 2 leases that terminated by operation of law. For leases that are modified or reaffirmed, additional site-specific analysis of potential development impacts will occur when the BLM receives an application to approve an action on the ground. That site-specific analysis will occur through subsequent NEPA reviews and analysis to be conducted before the BLM issues permits or approvals for any subsequent oil and gas development on those leases.

Table of Contents

1. Introduction	1
2. Background.....	1
3. Alternatives Considered	2
3.1 Alternatives Considered in Detail.....	2
3.1.1 Alternative 1 (No Action Alternative).....	2
3.1.2 Alternative 2	2
3.1.3 Alternative 3.....	3
3.1.4 Alternative 4 (Proposed Action)	3
3.1.5 Alternative 5	3
3.1.6 The Preferred Alternative	3
3.2 Environmentally Preferable Alternative	4
3.3 Alternatives Considered but Eliminated from Detailed Analysis.....	4
3.3.1 Designate Access Routes.....	4
3.3.2 Limit Hydraulic Fracturing	5
3.3.3 Requests to Retain or Cancel Certain Leases	5
3.3.4 Reducing the Size of the Leases	6
3.3.5 Cancelling Suspensions/Allowing Leases to Expire	6
3.3.6 Requirements for Existing Pollution to be Cleaned Up before Leases are Developed ...	6
3.3.7 Requirements for Monitoring of Existing Sites	6
3.3.8 Considering Drilling of Leases with NSO Stipulations from Adjacent Locations without NSO Stipulations	7
3.3.9 Additional NSO Stipulations	7
3.3.10 NSO Stipulation Buffers	8
3.3.11 Additional Timing Limitations	8
3.3.12 Additional Resource Protections.....	8
3.3.13 More Expansive Definition of Alternative 2.....	9
3.3.14 Out of Scope Alternatives	9
4. Summary of Decision	9
5. Reason for the Decision and Management Considerations	13
6. Mitigation Measures	17
7. Agency Coordination and Consultation	17
7.1 Section 7 Consultation	18
7.2 Section 106 Consultation	18
7.3 Government-to-Government Consultation	19
7.4 Consistency with State and Local Plans	20
8. Public Involvement and Comments Received.....	20
8.1 Overview.....	20
8.2 Scoping.....	20

8.3	Draft EIS	21
8.4	Final EIS	21
9.	Changes between Final EIS and ROD	22
9.1	Lease Status Changes Affecting the Decision	22
9.1.1	Lease Termination and Expirations Not Subject to Appeal	22
9.1.2	Lease Termination and Expirations Subject to Appeal	22
9.1.3	Other Lease Status Changes	22
9.2	Final EIS Corrections	22
10.	Summary and Conclusion	27
11.	Further Information	27
12.	State Director Decision	28
13.	Secretarial Approval	29

ATTACHMENTS

Attachment 1. Summary of How Stipulations Apply Under the Decision

Attachment 2. Stipulations Applied to Modified Leases Under the Decision

Attachment 3. Maps

Attachment 4. Applicable Stipulations

Attachment 5. Summary of Public Comments on the Previously Issued Leases on the White River National Forest Final Environmental Impact Statement

List of Acronyms

ACHP	Advisory Council on Historic Preservation
APD	Application for Permit to Drill
BLM	Bureau of Land Management
BMPs	best management practices
COA	Condition of Approval
CFR	Code of Federal Regulations
CRVFO	Colorado River Valley Field Office
CSU	controlled surface use
DOI	U.S. Department of the Interior
EA	Environmental Assessment
EIS	Environmental Impact Statement
EPA	Environmental Protection Agency
FLPMA	Federal Land Policy and Management Act
FR	Federal Register
IBLA	Interior Board of Land Appeals
LRMP	Land and Resource Management Plan
MLA	Mineral Leasing Act
NEPA	National Environmental Policy Act of 1969, as amended
NFS	National Forest System
NOA	Notice of Availability
NOI	Notice of Intent
NSO	no surface occupancy
ONRR	Office of Natural Resources Revenue
ROD	Record of Decision
ROW	right-of-way
SHPO	State Historic Preservation Officer
SLT	standard leasing terms
SUPO	Surface Use Plan of Operation
THPO	Tribal Historic Preservation Officer

Previously Issued Oil and Gas
Leases in the White River National Forest

TL	timing limitation
U.S.	United States
USFWS	U.S. Fish and Wildlife Service
WRNF	White River National Forest

1. INTRODUCTION

In accordance with 40 CFR 1505.2, this Record of Decision (ROD) provides the decision of the U.S. Department of the Interior (DOI) Bureau of Land Management (BLM) whether to cancel, reaffirm, or modify (with additional or different terms) 65 previously issued federal fluid minerals leases underlying the U.S. Forest Service's (Forest Service) White River National Forest (WRNF) lands in western Colorado. The decisions in this ROD are based on the analysis contained in the Previously Issued Oil and Gas Leases in the WRNF Final Environmental Impact Statement (EIS). For the reasons described in this ROD, BLM has decided to adopt a slightly modified version of the Preferred Alternative identified in the Final EIS. This decision combines portions of Alternatives 2 and 4. In addition to stating BLM's decision, this ROD identifies all alternatives considered in reaching this decision, specifies the alternative that was considered to be environmentally preferable, and identifies relevant factors (including essential considerations of national policy) that BLM addressed in making this decision. As explained below, the BLM decision has been approved by the Deputy Secretary of the DOI, and therefore represents the final decision of the DOI.

2. BACKGROUND

In compliance with the National Environmental Policy Act of 1969, as amended (NEPA), the BLM Colorado River Valley Field Office (CRVFO) in Silt, Colorado, prepared an EIS analyzing the issuance of 65 federal fluid minerals leases within WRNF. These leases were issued between 1995 and 2012, and are located in Mesa, Garfield, Pitkin, and Rio Blanco counties, between the towns of De Beque and Carbondale south of Interstate 70, except for one lease northeast of Meeker (see Attachment 3, Maps).

The decision that made each of the 65 parcels considered in the BLM's EIS available for oil and gas leasing was the Forest Service's 1993 WRNF Oil and Gas Leasing ROD, which was reaffirmed in the 2002 WRNF Land and Resource Management Plan (LRMP). Before offering the nominated parcels for competitive bid in oil and gas lease sales, the BLM obtained consent from the Forest Service and subsequently issued the leases. However, the BLM did not formally adopt the Forest Service's NEPA analysis.

The BLM prepared its EIS to address a NEPA deficiency relating to the leases identified by the Interior Board of Land Appeals (IBLA).¹ In a 2007 decision involving three oil and gas leases in the WRNF, the IBLA held that before including Forest Service parcels in an oil and gas lease sale, the BLM must either formally adopt NEPA analysis completed by the Forest Service or conduct a NEPA analysis of its own (see Board of Commissioners of Pitkin County, 173 IBLA 173 [2007]). The IBLA ruled that even though the BLM was a Cooperating Agency on the Forest Service's 1993 WRNF Oil and Gas Leasing EIS, the BLM did not formally adopt the Forest Service NEPA analysis or prepare its own, and therefore did not comply with its NEPA obligations before issuing the leases subject to that proceeding. The 2007 IBLA decision addressed three leases in the WRNF that were later cancelled. While that decision did not specifically address the 65 previously issued leases addressed in this ROD and the Final EIS, those leases share the same NEPA deficiency as the leases subject to the 2007 IBLA decision. That defect makes the leases voidable at the discretion of the Secretary of the Interior, acting through the BLM.

Following IBLA's decision, the BLM determined that the Forest Service NEPA analysis conducted for the previously issued leases was no longer adequate due to changes in laws, regulations, policies, and conditions since the Forest Service's EIS was issued in 1993. Examples of changed circumstances since 1993 and 2002 considered in the recent EIS include additions and modifications to the federal endangered and threatened species list and guidance, major changes to the National Ambient Air Quality Standards, implementation of the Forest Service Colorado Roadless Rule, and the development and deployment of new oil and gas drilling and production technologies.

¹ The IBLA is the administrative adjudicatory body within the DOI that renders final decisions for the DOI on appeals relating to, in part, the use and disposition of public lands. 43 CFR 4.1(b)(2).

In total, the BLM identified 65 existing leases with effective dates ranging from 1995 to 2012 that were issued based on the 1993 WRNF Oil and Gas Leasing EIS and/or 2002 LRMP. Based on the foregoing, the BLM determined that it is necessary to conduct additional NEPA analysis to evaluate the impacts of those prior leasing decisions within the WRNF and to inform whether to void (cancel), reaffirm, or propose modifications to the leases. While the decision whether National Forest System (NFS) lands are available or unavailable for oil and gas leasing is made by the Forest Service, the BLM retains the ultimate discretion whether to issue a lease (Title 43 Code of Federal Regulations [CFR], section 3101.7-2). As a result, this ROD and Final EIS only considers the 65 previously leased parcels and not future leasing availability, which has recently been addressed in a separate NEPA analysis prepared by the Forest Service, the WRNF Oil and Gas Leasing Final EIS (December 2014), and a subsequent ROD, issued in December 2015. The BLM has incorporated as much of the Forest Service's most recent NEPA analysis and ROD as warranted into this analysis. The BLM was a Cooperating Agency on the WRNF EIS.

Prior to or during preparation of the EIS, 6 leases expired (COC 58835, COC 58840, COC 58841, COC 66913, COC 66948, and COC 67543). Of those 6 leases, 4 leases expired due to a unit contraction that is currently under appeal to the IBLA (IBLA No. 2014-104), a decision that lifted a lease suspension for 66948 prior to expiration is also under appeal (IBLA No. 2016-0234), and one lease expiration (COC 67543) is not subject to appeal. In addition, two leases (COC 76123 and COC 72157) terminated automatically by operation of law.

As result of these unrelated changes to the leases covered by this analysis, through this ROD, the BLM is only making decisions with respect to 62 of the 65 leases analyzed in the Final EIS, with decisions on 5 of those leases applying provisionally should: (i) the IBLA overturn the BLM's unit contraction decision affecting leases COC 58835, COC 58840, COC 58841 and COC 66913, or (ii) should an appeal result in lease COC 66948 being placed back into suspension or being reauthorized. No decision is necessary for the three leases that have expired or terminated and are not subject to appeal.

3. ALTERNATIVES CONSIDERED

3.1 Alternatives Considered in Detail

The alternatives analyzed in the Draft and Final EISs were developed by the BLM in response to issues and concerns raised through public comments, tribal consultation, coordination with Cooperating Agencies, and internal evaluation by BLM resource specialists. The Draft and Final EIS analyses considered the potential direct, indirect, and cumulative effects of reasonably foreseeable future development of the 65 leases. The basis for the analysis of future oil and gas development was the 2010 WRNF Reasonably Foreseeable Development Scenario.

3.1.1 Alternative 1 (No Action Alternative)

Alternative 1 would reaffirm all 65 leases. Under Alternative 1, the BLM would continue to administer the leases as issued with their current stipulations. Those leases that are currently under suspension would be reaffirmed and allowed to be developed at the discretion of the lessee, subject to applicable legal requirements.

3.1.2 Alternative 2

Alternative 2 would reaffirm 57 leases and modify 8 leases to address inconsistencies by adding stipulations identified in the 1993 WRNF Oil and Gas EIS and ROD that were not attached to the leases as issued. Under this alternative, the BLM would offer the lessee the option of either accepting the new lease stipulations or having the lease cancelled.

3.1.3 Alternative 3

Alternative 3 would modify each of the 65 leases to match the stipulations for future leasing identified in the Proposed Action from the 2014 WRNF Oil and Gas Leasing Final EIS and Final ROD for Oil and Gas Leasing on Lands Administered by the WRNF. Although the Forest Service's 2014 EIS and 2015 ROD do not expressly apply to these 65 leases because that EIS and ROD only governs future leasing and all 65 of the leases predate that EIS and ROD, Alternative 3 is designed to consider the modification of the 65 leases to match its stipulations for future leasing. Under this alternative, the BLM would offer the lessee the option of either accepting the new lease terms or having the lease cancelled. For undeveloped leases, cancellation (if elected by the lessee) would be done through a BLM administrative process (43 CFR 3108.3(d)) under which the BLM would refund any rental fees and bonus bids. For leases with producing wells, the new stipulations would only apply to new development. Existing wells would remain in production.

3.1.4 Alternative 4 (Proposed Action)

Alternative 4 would both modify and cancel leases. In areas identified as open to future leasing by the Forest Service's 2015 WRNF Final ROD, lease stipulations would be modified as in Alternative 3. In areas identified as closed to future leasing by the Forest Service ROD, all or part of 25 leases would be cancelled. Although the Forest Service's final decision on future leasing does not expressly apply to the 65 previously issued leases, this Alternative is designed to reflect the Forest Service's future management objectives for the areas covered by those 65 leases. The primary difference between Alternatives 3 and 4 is that under Alternative 4, some leases or parts of leases would be cancelled to match those areas determined to be closed to leasing in the Forest Service's 2015 WRNF Final ROD. Under this alternative, for those leases not subject to cancellation the BLM would offer the lessee the option of either accepting the new lease stipulations or having the lease cancelled. As explained with respect to Alternative 3, for undeveloped leases, cancellation would be done through a BLM administrative process (43 CFR 3108.3(d)) under which the BLM would refund any rental fees and bonus bids. For leases with producing wells, the new stipulations would only apply to new development.

3.1.5 Alternative 5

Alternative 5 would cancel all of the previously issued 65 leases, plug and abandon all producing wells, remove infrastructure, reclaim well pads and other ancillary facilities, and re-vegetate disturbed areas. For undeveloped leases, cancellation would be done through a BLM administrative process (43 CFR 3108.3(d)) and would require that the BLM refund any rental fees and bonus bids. For producing leases, the BLM would request judicial action to cancel the lease.

3.1.6 The Preferred Alternative

The Preferred Alternative is the alternative which the agency believes would best accomplish the purpose and need of the proposed action while fulfilling its statutory mission and responsibilities, giving consideration to economic, environmental, technical, and other factors (43 CFR 46.420(d)).

After consideration of agency and public comments on the five alternatives in the Draft EIS, the BLM identified in the Final EIS a Preferred Alternative that combined portions of Alternatives 2 and 4. The BLM developed this Preferred Alternative to address public comments and concerns submitted in response to the Draft EIS while also respecting recent decisions by the Forest Service. The Preferred Alternative identified in the Final EIS was consistent with the allocation decisions made by the surface management agency (the Forest Service), and recognizes the adverse economic impacts and technical challenges for the BLM and local governments associated with any decision to cancel producing or committed leases.

The Preferred Alternative combines portions of two Alternatives. As explained in the Final EIS, Alternative 2 management measures (e.g., stipulations identified in the 1993 WRNF Oil and Gas EIS and ROD that were not attached to the leases as issued) would be applied to 23 leases that are producing or committed to a unit or agreement and 4 expired leases currently under appeal that had previously been part of the Willow

Creek Unit (the Alternative 2 stipulations for these 4 expired leases would only apply if the BLM's unit contraction is overturned on appeal). Alternative 4, which follows stipulations identified in the Forest Service's 2014 Final EIS with minor modifications, are applied to 11 non-producing and non-committed leases and one expired lease under appeal. The Preferred Alternative cancels in their entirety 25 undeveloped leases that overlap the area identified as closed to future leasing by the Forest Service's 2015 WRNF Final ROD even if the lease in question only overlaps those areas in part. Unlike Alternative 4, there would be no partial lease cancellations. For the undeveloped leases that would be cancelled, such cancellation would be done through a BLM administrative process (43 CFR 3108.3(d)) under which the BLM would refund any rental fees and bonus bids. For leases that would be being reaffirmed, consistent with Alternative 4, the BLM would offer the lessee the option of either accepting the new lease stipulations or having the lease cancelled. The Preferred Alternative in the Final EIS also analyzed the modification of one expired lease (not subject to appeal) and two terminated leases (not subject to appeal) for consistency; however, as explained above no decision is being made by this ROD with respect to those terminated and expired leases.

3.2 Environmentally Preferable Alternative

The environmentally preferable alternative is the alternative that will promote the national environmental policy as expressed in NEPA's Section 101. Ordinarily, this means the alternative that causes the least damage to the biological and physical environment; it also means the alternative which best protects, preserves, and enhances historic, cultural, and natural resources (43 CFR 46.30).

The environmentally preferred alternative is Alternative 5 because it would cancel all existing leases and thereby provide the lowest level of potential future surface disturbance and development, and therefore the maximum amount of protection to natural, historic, and cultural resources.

3.3 Alternatives Considered but Eliminated from Detailed Analysis

During alternatives development, the BLM reviewed all alternatives or alternative elements suggested by the public during the scoping period. The range of alternatives to be analyzed in detail described in Section 2.2 addresses most of the scoping comments. There were some suggested alternatives or alternative elements considered during the alternatives development process but were eliminated from detailed analysis as outlined below.

In general, the following reasons may be considered grounds for eliminating an alternative (BLM Handbook H-1790-1, 6.6.3):

- It is ineffective because it would not respond to the agency's purpose and need.
- It is technically or economically infeasible.
- It is inconsistent with the basic policy objectives for the management of the area.
- Its implementation is remote or speculative.
- It is substantially similar in design to an alternative that is analyzed in detail.
- It would have substantially similar effects to an alternative that is analyzed in detail.

The specific alternatives that were eliminated from detailed analysis are discussed below, along with the rationale for their elimination.

3.3.1 Designate Access Routes

Public scoping and some Cooperating Agency comments stated concerns related to the potential effects of traffic by vehicles and heavy equipment used by the oil and gas industry on community, residential, and relatively narrow forest roads. The comments pointed out that the roads and bridges, especially those that

would be needed to access the eastern-most leases, are not adequate to handle heavy and frequent industry traffic without major improvements. Also of concern was that the heavy vehicle traffic would be incompatible with the other activities in Carbondale and Glenwood Springs, due to existing congestion during ski season and the residential nature of some of the feeder roads that would most likely be used to access the leases. Some commenters specifically expressed concern over the use of Four-Mile Road, which is the primary road that would be used to access the leases south of Carbondale and requested that use of this road by oil and gas vehicles and heavy equipment not be allowed.

Specifically, it was suggested that the BLM consider designating specific routes to access certain leases under one or more alternatives. This alternative was not carried forward because BLM guidelines and policy specify that lease stipulations are used to control on-lease activities, not otherwise lawful off-lease activities over which the BLM has no authority. This alternative would not be consistent with the agency's purpose and need to comply with the BLM's and Forest Service's mineral policy and collaborative responsibility for oil and gas development. The construction, use, or improvement of roads on public lands is addressed during separate project-specific NEPA analyses for off-lease right-of-way (ROW), special use permit applications, or other lawful agreements. It should be noted that the analysis in the Final EIS does address specific concerns about impacts to Four Mile Road as the EIS' analysis allows for a comparison of the relative use of Four Mile Road for accessing oil and gas leases by alternative (e.g., under Alternatives 4 and 5, and the Preferred Alternative, leases accessed by this road would be cancelled, whereas under Alternatives 1, 2, and 3, development would potentially occur).

3.3.2 Limit Hydraulic Fracturing

There were public concerns related to the effects of hydraulic fracturing expressed during scoping and recommendations that the BLM should consider limiting or excluding hydraulic fracturing through lease stipulations. The BLM determined that an alternative of limiting or disallowing hydraulic fracturing through lease stipulations would not meet the purpose and need or is not economically practicable or feasible for three primary reasons:

1. There are appropriate mitigation measures required during well development operations to minimize potential adverse impacts;
2. Operators cannot feasibly develop many of the target formations in the 65 leases without hydraulic fracturing, which would result in denying access to the leased minerals; and
3. The method of hydraulic fracturing or other completion technique is speculative until the site-specific stage of permitting and therefore is not able to be analyzed in detail at the leasing stage.

3.3.3 Requests to Retain or Cancel Certain Leases

Many requests made during public scoping called for the BLM to cancel all leases in the area known locally as the Thompson Divide. The reason stated for an alternative that cancels these leases is to preserve the current nature of the area, protect natural resources for recreational uses, protect surface water and groundwater, and preserve land values and residential communities.

The BLM considered creating an alternative in response to this public request; however, it determined it was unnecessary because such an action is substantively similar to Alternative 4. It is also a subset of Alternative 5, in which all leases would be cancelled.

Comments made on the Draft EIS also included numerous suggestions to cancel or retain certain leases. These included requests to cancel each lease (comments included rationale specific to each lease); all Thompson Divide area leases; all leases with little or no fluid mineral production; all leases in Colorado Roadless Rule areas; all leases in Canada lynx and greater sage-grouse or other sensitive habitat; and all leases that are suspended or expired. Other comments suggested that the BLM modify Alternative 5 so that all producing leases would be retained. Comments also suggested an alternative that would cancel all non-producing leases and add Alternative 4 stipulations to producing leases. The BLM determined the inclusion

of separate alternatives to address these comments was not necessary because: 1) each of the lease cancellation alternatives are "components" of Alternative 5, which would cancel all 65 leases; and 2) per 40 CFR 1505.1(e) and 43 CFR 46.420(c), the alternatives considered by the decision-maker must be within the range of alternatives discussed in the analysis; however various parts of separate alternatives within that analysis may be "mixed and matched" to develop a complete alternative, as long as the reasons for doing so are explained (see BLM H-1790-2008). Because the range of alternatives analyzed in this EIS includes the cancellation of all leases, the BLM determined that a decision that cancels more leases than those specified in Alternative 4 but fewer leases than outlined in Alternative 5 or which applies Alternative 4 stipulations to producing leases is within the range of alternatives analyzed. Similarly, Alternative 1, the No Action Alternative, would retain all leases as issued. The BLM therefore determined that a decision to retain certain leases as issued (as recommended by some public comments), is also within the range of alternatives analyzed, so a new alternative was not needed.

3.3.4 Reducing the Size of the Leases

Scoping comments suggested that the BLM reduce the size of the leases as a way to minimize resource impacts. This suggested alternative was eliminated from detailed analysis because it would have substantially similar effects to Alternatives 3 and 5. Alternative 3 adds new lease stipulations to large areas to minimize adverse effects to important resources. Where there are additional acres of no surface occupancy (NSO) stipulations, the size of the lease is effectively reduced for surface disturbance, only allowing fluid mineral extraction from formations accessed from surface locations that are offset from the target location. Alternative 5 considers cancelling all leases, which would eliminate future development and resource impacts. Therefore, the BLM determined that an alternative reducing the size of the leases was within the range of alternatives analyzed, so a separate alternative was not needed.

3.3.5 Cancelling Suspensions/Allowing Leases to Expire

Scoping comments suggested that the BLM cancel all lease suspensions and allow leases to expire. This alternative element was dismissed from detailed analysis because it does not address all of the leases and thus it does not meet the agency's purpose and need and would be inconsistent with the requirement to address the NEPA deficiency identified by the IBLA. Moreover, a separate alternative is not needed to allow the BLM to exercise its discretion under the suspensions to cancel, modify, or reaffirm the suspended leases.

3.3.6 Requirements for Existing Pollution to be Cleaned Up before Leases are Developed

Scoping comments suggested that the BLM consider a requirement that existing pollution must be cleaned up before operators can develop their leases. This alternative was dismissed from detailed analysis because it does not meet the BLM's or the Forest Service's purpose and need. Specifically, it does not meet the BLM's purpose and need to revisit or reaffirm previous leasing decisions, address the NEPA deficiency identified by the IBLA, or meet the BLM's collaborative responsibility under the Federal Onshore Oil and Gas Leasing Reform Act of 1987 (Reform Act), PL 100-203, to issue and manage oil and gas leases where the Forest Service has made a land availability decision. Compliance with applicable laws, regulations, and standards for pollutants or hazardous materials and spills is required as part of the BLM and Forest Service regulations, policies, and guidelines for monitoring and enforcement of federal oil and gas leases (e.g., 43 CFR 3162).

3.3.7 Requirements for Monitoring of Existing Sites

Scoping comments suggested that the BLM consider a requirement that existing development be randomly monitored to determine their performance with regard to atmospheric, water, and ground contamination. This alternative was dismissed from detailed analysis because it does not meet the agency's purpose and need to address the NEPA deficiency identified by the IBLA associated with the decision to lease. Monitoring of existing oil and gas leasing is addressed under the site-specific Environmental Assessments

(EAs) and permits that authorize development, and as part of the BLM and Forest Service policies and guidelines for monitoring and enforcement of federal leases. It is not within the scope of a leasing-level EIS.

3.3.8 Considering Drilling of Leases with NSO Stipulations from Adjacent Locations without NSO Stipulations

Scoping comments requested that the BLM and the Forest Service jointly consider and support the application of directional or horizontal drilling of federal leases designated with NSO stipulations from adjacent new or existing locations on federal leases without NSO stipulations or adjacent locations on private leases. This alternative element was dismissed from detailed analysis because BLM regulations and policy do not require specific drilling techniques such as horizontal drilling, which is largely a technical and economic decision to be made by the operator before submitting an Application for Permit to Drill (APD). Nonetheless, this scenario is assumed in some cases in the analysis of the alternatives carried forward, such as through the use of analysis areas larger than lease boundaries and a consideration of off-lease effects.

3.3.9 Additional NSO Stipulations

Commenters requested the following NSO stipulations to protect resources that are not currently specified in the range of alternatives:

- NSO for cultural resources
- NSO for sensitive soils
- NSO stipulations to maintain road density guidelines
- NSO buffers around dams and water control structures
- NSO buffers around injection wells
- NSO within Inventoried Roadless Areas

It is important to note that the range of alternatives does offer the option of cancelling all leases. This alternative is available for any or all leases, particularly in which unacceptable adverse resource impacts are disclosed through analysis, including impacts to any resources that are not protected by the NSO stipulations outlined in the alternatives.

Additional reasons for the elimination of these alternatives are included below.

- **Cultural Resources:** The existing regulatory framework, including the National Historic Preservation Act of 1966, 54 U.S.C. 306108, provides the authority to protect cultural resources. Protection of cultural resources is usually addressed at the site-specific APD stage, after cultural surveys have been done. The BLM and the Forest Service are required to consider avoidance or mitigation of sites listed on or eligible for the National Register of Historic Places and there is little need to incorporate a stipulation to protect a resource that is already protected by law.
- **Sensitive Soils:** Surface disturbance on erodible soils and landscape stability is considered in the EIS impact analysis. The range of alternatives includes NSO and controlled surface use (CSU) stipulations to address conditions that can lead to loss or degradation of soil resources by disallowing surface disturbance (NSO) or moving surface disturbance away from erodible soils (CSU). These stipulations to protect soil resources would be applied under Alternative 3, following site-specific soil surveys once an APD is filed.
- **Road Density:** Because the locations of future oil and gas development (including new access roads) are not known at this level of the leasing availability analysis, it is not practicable to apply NSO stipulations to areas that may potentially have conflicts with Forest Plan road density guidelines. During the site-specific NEPA process, which is done when an APD is submitted, Forest

Plan road density guidelines will be a part of the analysis and design of the proposal. The Forest Plan road density analysis is done by the Forest Service as part of their Surface Use Plan of Operation (SUPO) review.

- **Inventoried Roadless Areas:** The Forest Service designated Inventoried Roadless Areas in the WRNF in 2001. Public comments suggested that development in these areas should be limited with a NSO stipulation. This was eliminated from detailed analysis because these designations have been superseded by the 2012 Colorado Roadless Rule. Alternatives 3 and 4 incorporate current Forest Service leasing requirements for compliance with the 2012 Roadless Rule.

3.3.10 NSO Stipulation Buffers

Commenters suggested specific buffers to protect various resources with NSO stipulations. These suggestions were dismissed from detailed analysis because they fall within the range of alternatives analyzed, which includes a full range of resource protections including the buffers contained in the 1993 analysis (Alternatives 1 and 2), and the buffers contained in the 2014 WRNF Final EIS (Alternatives 3 and 4). Additionally, the possibility of no leasing is presented and analyzed under Alternative 5.

3.3.11 Additional Timing Limitations

Commenters requested a timing limitation that would prohibit in-channel stream disturbance during fish spawning, egg incubation, and fry emerging seasons. This was not incorporated because the current range of alternatives includes NSO stipulations for both native cutthroat trout habitat and water influence zones, which includes perennial streams.

3.3.12 Additional Resource Protections

Scoping commenters suggested numerous design features and best management practices (BMPs) for various resources described below:

- **Well Design:** design specifications related to well drilling, stimulation, production, and closure phases.
- **Air Quality:** air quality mitigation measures such as methane capture, or other control measures; requirements for air quality monitoring.
- **Human Health and Safety:** use of bear-proof trash containers to reduce wildlife-human conflicts; BMPs to reduce the threat of industry-caused fire, and requirements for emergency response plans.
- **Scenic Resources:** BMPs to protect recreation uses in the area, such as locating disturbance and equipment to minimize visual detection, and painting equipment in neutral tones that match surrounding landscape.
- **Transportation:** BMPs outlining collaboration needs for transportation routes.
- **Water Resources:** requirements to minimize the number of road-stream crossings; BMPs to manage road drainage and erosion to avoid routing sediment to streams; requirements for water resources management plans; and requirements for use of recycling produced water in well drilling and stimulation.

These design features, mitigation measures, and BMPs are more effectively identified and appropriately considered during the APD process, after operators submit a site-specific plan of operations for evaluation. For this reason, they were not added as part of an alternative to be analyzed in detail.

3.3.13 More Expansive Definition of Alternative 2

The BLM considered a preliminary version of Alternative 2 that would have included modifying the geographic application of stipulations currently attached to the 65 leases, or be attached based on the WRNF 1993 ROD, to match more current mapping of those resources. This alternative element was eliminated as redundant with Alternatives 3 and 4, which rely on contemporary mapping of various resources to establish stipulations that are protective of those resources.

The BLM also considered a preliminary version of Alternative 2 that would have included modifying the leases to add stipulations needed to ensure compliance with applicable laws and regulations. This alternative element was eliminated from detailed analysis because: 1) it was somewhat redundant with standard leasing terms (SLTs) and supplemental authorities, which require compliance with applicable laws and regulations, and 2) it was not clear whether any stipulations would be needed to ensure compliance. Therefore, Alternative 2 was defined with a more limited scope to allow analysis of a broad range of alternatives to inform the BLM's eventual decision.

3.3.14 Out of Scope Alternatives

During the public comment period for the Draft EIS, public comments included requests for an alternative that would cancel additional leases outside of the 65 leases in question (including but not limited to all leases with the WRNF or all leases within Colorado); a negotiated lease exchange, buyout, or legislative removal of the existing leases; consideration of renewable energy projects in place of the federal oil and gas leasing program; and other suggestions unrelated to oil and gas leasing (see the Final EIS, Appendix E, Response to Comments).

As disclosed in Section 1.5 of the Draft and Final EISs, the decision to be made by the BLM is whether the 65 leases should be: 1) reaffirmed with their current existing stipulations; 2) modified with additional or different lease stipulations or additional mitigation measures; or 3) cancelled. Consideration of negotiated lease exchange, buyout, or legislative removal of leases; renewable energy projects in place of the federal oil and gas leasing program; cancelling other leases outside of the 65 leases; or taking other actions unrelated to mineral leasing would not respond to the agency's purpose and need, would be outside the BLM's authority, or would be inconsistent with the basic policy objectives for the management of the area.

4. SUMMARY OF DECISION

The BLM has decided to adopt and implement a slightly modified version of the Preferred Alternative identified in the Final EIS. The decision made by this ROD still combines portions of Alternatives 2 and 4. The decision applies stipulations described under Alternative 2 (including minor updates to reflect the 1993 WRNF Oil and Gas Leasing ROD) to all leases within the analysis area that are producing or committed to a unit or agreement. For those leases within the analysis area that are not producing or committed to a unit or agreement, Alternative 4 applies (cancel or modify leases to match the Forest Service's 2015 WRNF Final ROD concerning future oil and gas leasing) with one exception: The decision cancels in their entirety all undeveloped leases that overlap the area identified as closed to future leasing by the 2015 WRNF Final ROD. The difference between lease cancellations under Alternative 4 and this decision is that 7 leases having acres retained under Alternative 4 are cancelled in full under this decision. There are no partial lease cancellations.

Under this decision, 25 undeveloped leases are administratively cancelled in full, 12 undeveloped leases would remain open with new stipulations applied under Alternative 4 (subject to lessee consent²), 20

² For these leases, the lessees would have the option of either accepting the new lease stipulations or having the leases cancelled. Cancellation, if necessary, would be done through a BLM administrative process (43 CFR 3108.3(d)) under which any rental fees and bonus bids would be refunded or credited by the Office of Natural Resources Revenue (ONRR).

producing or committed leases are reaffirmed or modified as described under Alternative 2, 4 expired leases currently under appeal that had previously been part of the Willow Creek Unit (held by production) would be reaffirmed or modified as described under Alternative 2 if the BLM's unit contraction is overturned on appeal, and one expired lease subject to appeal would have Alternative 4 stipulations applied if it were reauthorized. No decision is made for three leases that have expired or terminated by operation of law and are not subject to appeal. These specific changes are described as outlined in the Final EIS and are also outlined in the following attachments to this ROD.

See **Attachment 1, Summary of How Stipulations Apply Under the Decision**, for a table describing the decision's impact on those leases.

See **Attachment 2, Stipulations Applied for Modified Leases Under the Decision**, for a table listing specific stipulations for the modified leases.

See **Attachment 3 for maps** describing the decision's bearing on leases.

See **Attachment 4 for the applicable stipulations** to be applied.

Implementing the decision necessitates a series of sub-decisions, described below:

1. Specifically, the decision is hereby made to reaffirm the following producing leases, subject to their existing terms and conditions (except as noted below). These reaffirmed leases would continue to be administered as issued under their respective term and conditions:

*COC 058677 **
COC 059630
COC 066727
COC 066728
COC 066729
COC 066730
COC 066731
COC 066732
COC 066733
COC 066926
COC 061121
COC 066724
COC 066918
COC 066920
COC 067150
COC 067544
COC 058836
COC 058837
COC 058838
COC 058839
*COC 058835 ***
*COC 058840 ***
*COC 058841 ***
*COC 066913 ***

Notes

** Reaffirmed, and approximately 5 acres additional 1993 big game winter range timing limitation stipulation applied to address an error between the stipulations identified in the 1993 WRNF EIS and ROD and the lease as it was issued.*

*** Reaffirmation provisionally applies to these expired leases should the Willow Creek Unit contraction be overturned on appeal. In addition, a 1993 snowmobile corridor timing limitation would apply to leases COC 058840 (Timing Limitation [TL] of 88 acres) and COC 058841 (TL of 327 acres) to address a known inconsistency between the stipulations identified in the 1993 WRNF EIS and ROD and the lease as it was issued. If the unit contraction is upheld, the lease would expire and re-leasing of such parcel would be subject to the then applicable decisions by the Forest Service.*

2. The decision is hereby made to cancel the following leases:

COC 066687
COC 066688
COC 066689
COC 066690
COC 066691
COC 066692
COC 066693
COC 066694
COC 066695
COC 066696
COC 066697
COC 066698
COC 066699
COC 066700
COC 066701
COC 066702
COC 066706
COC 066707
COC 066708
COC 066709
COC 066710
COC 066711
COC 066712
COC 066908
COC 066909

While the decision is to cancel these leases, cancellation procedures and processing will be completed administratively. Upon cancellation of these leases, notification letters will be sent to each lessee via direct mail. Bonus bids and rental payments for the leases cancelled shall be refunded or credited by ONRR to the lessees, pursuant to Section 111A of the Federal Oil and Gas Royalty Simplification and Fairness Act, 30 U.S.C. 1721a, on condition that, the lessees submit to DOI's ONRR a sufficient request for a reimbursement consistent with 30 U.S.C. 1721a. Any refunds owed will be made directly to the lessees.

In addition, upon lease cancellation, the BLM will deny pending APDs associated with the cancelled leases. Specifically, APDs associated with the following leases will be denied: COC 066692, COC 066693, COC 066696, COC 066697, COC 066698, COC 066701, and COC 066708 consistent with this decision.

3. The decision is hereby made to offer modified lease terms as specified in Alternative 4 and in Attachments 2 and 3, to the following leases:

COC 067147 ⁺⁺⁺
COC 070013 ⁺⁺⁺
COC 070361 ⁺⁺⁺
COC 066723
COC 066915
COC 066916
COC 066917
COC 067542
COC 070014
COC 070015
COC 070016
COC 075070
COC 066948 ⁺⁺

Notes

⁺⁺ *Modification provisionally applies to this expired lease should the IBLA overturn the BLM decision to lift the lease suspension and the BLM reauthorizes the lease.*

⁺⁺⁺ *On August 15, 2016, the Middleton Creek Unit was automatically contracted, retroactively effective August 20, 2015, according to the terms of the unit agreement. As a result of the contraction, three leases (COC 067147, COC 070013, and COC 070361) considered as producing in the Final EIS (because they were held by their location in a producing unit) are now considered undeveloped and are thus offered modified lease terms consistent with Alternative 4 of the Final EIS.*

If modified lease terms are accepted within 30 calendar days of receipt of the BLM's offer, these leases will be modified to reflect the new stipulations. If the modified lease terms are rejected or no response is received within 30 calendar days of receipt of the BLM offer, leases will be cancelled administratively, subject to the cancellation and refund procedures described above. There is no change in lease term timeframes.

4. One lease (COC 067543) expired and two leases (COC 76123 and COC 72157) were terminated subsequent to this decision and are not subject to appeal. As such, no decision remains to be made with respect to the following leases:

COC 067543
COC 076123
COC 072157

5. REASON FOR THE DECISION AND MANAGEMENT CONSIDERATIONS

The Secretary of the Interior (Secretary) possesses broad management authority over the public lands and federal mineral estate, as delegated by Congress. For example, Congress has directed the Secretary to perform “all executive duties ... in anywise respecting such public lands” (43 U.S.C. 2). Likewise, the Secretary is charged “with the supervision of public business relating to. . . [p]ublic lands, including mines.” (43 U.S.C. 1457); see also 43 U.S.C. 1201 (directing the Secretary “to enforce and carry into execution, by appropriate regulations, every part of the provisions of [Title 43] not otherwise specially provided for”). Furthermore, under the Federal Land Policy and Management Act (FLPMA), the Secretary has broad authority to regulate the use, occupancy, and development of public lands and to take whatever action is required to prevent unnecessary or undue degradation of the public lands (43 U.S.C. 1732). Most of this authority is exercised through the BLM pursuant to delegations from the Secretary given its responsibility for management of the public lands.

The Mineral Leasing Act of 1920 (MLA), as amended, 30 U.S.C. 181-196; empowers the Secretary to lease the rights to federal mineral deposits. The Secretary has issued regulations to implement the MLA authority delegated by Congress (43 CFR Part 3100). Under the MLA and its implementing regulations, the BLM and the Forest Service have shared responsibilities in issuing and administering oil and gas leases on NFS lands (see 30 U.S.C. 226(g) and (h); 43 CFR 3101.7). The decision of whether NFS lands are available for oil and gas leasing rests with the Forest Service, but the BLM retains the ultimate discretion whether to issue a lease (43 CFR 3101.7-2). An area has to be identified as available for leasing before BLM can issue a lease. It should also be noted that if an area is leased, there is additional site-specific analysis that occurs after the operator submits a SUPO to the Forest Service and APD for oil and gas exploration or development to the BLM. Those onsite reviews help to determine the level of NEPA analysis required, such as a categorical exclusion, EA, or EIS, before a SUPO can be approved by the Forest Service and an APD is issued by the BLM.³

In connection with leasing activities, the Secretary, through the BLM, has inherent authority, under her general managerial power over public lands, to cancel leases issued in violation of a statute or regulation.⁴ That authority is not superseded by the MLA,⁵ and in fact is reflected in the MLA’s implementing regulations which provide that leases “shall be subject to cancellation” if “improperly issued.”⁶ Under this authority, the BLM may cancel leases if they were issued in violation of NEPA or other laws. The IBLA has identified two

³ Regardless of the level of NEPA analysis, the onsite reviews are also used to determine what site- and project-specific design features, BMPs, mitigation measures, or Conditions of Approval (COAs) would be attached to the SUPO by the Forest Service and associated permit to drill in order to minimize impacts and protect resources.

⁴ *Boesche v. Udall*, 373 U.S. 472, 479-80 (1963) (The MLA leaves unaffected Secretary’s traditional administrative authority to cancel a lease on the basis of pre-lease decision factors.); see also *Winkler v. Andrus*, 614 F.2d 707, 711 (10th Cir. 1980) (“The Secretary has broad authority to cancel oil and gas leases for violations of the Mineral Leasing Act and regulations thereunder, as well as for administrative errors committed before the lease was issued.”).

⁵ Sections 27 and 31 of the MLA address lease cancellation in the context of, respectively, MLA violations and post-leasing violations. Section 27(h)(2) of the MLA provides that the Secretary’s right to cancel or forfeit a lease for violation of any provision of the MLA “shall not apply so as to affect adversely the title or interest of a bona fide purchaser of any lease.” 30 U.S.C. 184(h)(2). By its terms, this provision applies only in cases where the cancellation is “for violation of” the MLA, and does not shield purchasers from, or affect the Secretary’s authority of lease cancellation based on pre-lease violations of statutes other than the MLA, like NEPA. See *Wallis v. Pan Am. Petroleum Corp.*, 384 U.S. 63, 69 n.6 (1966) (Section 184(h) protects the rights of bona fide purchasers “if the Secretary seeks to cancel a lease for violations of the Act”). Similarly, section 31(b) of the MLA, 30 U.S.C. 188(b) describes the Secretary’s cancellation authority “upon the failure of the lessee to comply with any of the provisions of the lease.” That provision does not circumscribe the authority to cancel a lease upon the failure to issue lawfully in the first instance, *Boesche*, 373 U.S. at 479, nor does it diminish the Secretary’s authority to cancel leases for administrative errors and violations of statutes other than the MLA prior to lease issuance.

⁶ 43 CFR 3108.3(d) (“Leases shall be subject to cancellation if improperly issued.”).

different circumstances in which a lease may be cancelled. It has characterized as “void” and “a legal nullity” any lease issued for lands that were not legally available for leasing at the time they were issued.⁷ In contrast, it has characterized as “voidable” any lease issued in violation of a procedural requirements, such as NEPA, which does not compel any particular decision.⁸ In other words, a void lease is one that suffers from a substantive defect that the BLM cannot cure, such as including lands that were not available for the BLM to lease at the time they were issued. A voidable, cancelable lease is one that suffers from a procedural defect that the BLM may be able to correct at its discretion with further action on its part. Under these authorities, the 65 previously issued leases are “voidable” because they were not issued in compliance with the applicable NEPA requirements, and the BLM reserved its discretionary authority to cancel, reaffirm, or propose modifications to the leases.⁹ It should also be noted that the leases to be cancelled were suspended at the request of the leaseholders, and that the suspensions reserved the authority to cancel, modify, or reaffirm the leases, notwithstanding whether there had been procedural or other defects in their issuance. This decision exercises the BLM's discretion under the suspensions, as well as its statutory and regulatory authority to cancel leases issued in violation of a statute or regulation.

Based on the recently completed NEPA analysis, public comments (including affected lessees), and cooperator input, the BLM has determined that, of the range of alternatives considered in the Final EIS, a slight modification of the Preferred Alternative best meets the purpose and need for the BLM's action and represents the best balance between the need to protect natural resources and the need for the BLM and Forest Service to meet their responsibilities with respect to oil and gas leasing on the lands administered by the WRNF. While allowing oil and gas development, the decision provides protection for WRNF lands and resources by cancelling 25 non-producing leases in full and adopting all practical means to avoid or minimize environmental effects to NFS lands (per 40 CFR 1505.2(c)) in the remaining 37 leases. Avoidance or minimization of environmental effects will be realized through modified stipulations, where appropriate, and by allowing for site-specific mitigation measures to be developed as COAs during the APD process. The decisions made by this ROD take agency and public comments into account, respect recent Forest Service oil and gas availability decisions for lands within the WRNF, and best meet BLM's mandate to protect important resources while allowing oil and gas development.

The decision is also consistent with the BLM's stated purpose for the EIS including: 1) supporting the Forest Service in managing oil and gas resources, as required by law and memoranda of understanding between the agencies; and 2) fulfilling the Federal Government's policy to “foster and encourage private enterprise in the development of economically sound and stable industries, and in the orderly and economic development of domestic resources to help assure satisfaction of industrial, security, and environmental needs” (Mining and Minerals Policy Act of 1970, 30 U.S.C. 21a) while continuing to sustain the land's productivity for other uses and capability to support biodiversity goals (Forest Service Minerals Program Policy).

In addition, the decision is consistent with the BLM's need to: 1) meet domestic energy needs under the requirements of the MLA, the Mining and Minerals Policy Act of 1970, and the Reform Act; 2) address the NEPA deficiency identified by the 2007 IBLA that the BLM must formally adopt NEPA analyses completed by the Forest Service or conduct a NEPA analysis of its own prior to the issuance of oil and gas leases

⁷ *Clayton W. Williams, Jr.*, 103 IBLA 192, 202-03 (1988).

⁸ *Id.* at 210-11 (describing lease as “voidable” if NEPA requirements not fully met prior to lease issuance). In *Clayton W. Williams, Jr.*, the IBLA analyzed bona fide purchaser protection of the MLA, 30 U.S.C. 184(h); in terms of only “(1) whether the land in question was eligible for mineral leasing at the time it was leased; and (2) whether the current leaseholder is “a bona fide purchaser for value.” *Id.* at 211. The IBLA did not analyze the predicate question of whether 30 U.S.C. 184(h)(2) applies only in cases where the cancellation is “for violation of” the MLA. See *Wallis*, 384 U.S. at 69 n.6. The IBLA's holding that the BLM had improperly cancelled a lease for a NEPA violation, because the appellant was a bona fide purchaser, is not persuasive due to its failure to address the underlying issue of statutory interpretation.

⁹ See 43 CFR 3108.3(d); *Boesche*, 373 U.S. at 479.

underlying WRNF lands; 3) support the Forest Service mineral policy that puts responsibility on field units, with the known presence or potential presence of a mineral or energy resource, to foster and encourage the exploration, development, and production of the mineral or energy resources consistent with Forest Service management direction; and 4) meet the BLM's collaborative responsibility under the Reform Act to issue and manage oil and gas leases where the Forest Service has issued a land availability decision.

In making this decision, the BLM has acknowledged the Forest Service's desired future management conditions with respect to oil and gas leasing and development in the WRNF. Per their 2015 ROD for Oil and Gas Leasing on Lands Administered by the WRNF, the Forest Service considered the following in making their management determination for future leasing in the WRNF:

- Consistency with the White River National Forest Plan and its intent;
- Public input and comments;
- Interests expressed by Tribal Leaders, elected officials at the federal, state, county and local levels;
- Natural resource issues raised in the analysis process;
- Input from the interdisciplinary team as presented in the Forest Service's Final EIS, including the range of alternatives, potential effects, and consistency with other laws, regulations and policies;
- Social and economic impacts from oil and gas development;
- Past activities including where oil and gas development has proven productive;
- Conservation of the roadless and existing character of the White River National Forest while providing oil and gas development opportunities with a focus on lands that have proven to be productive in the past 10-15 years;
- Valuing the existing natural character including wildlife, fish, ranching, recreation, air quality, and sense of place;
- Concerns over the potential for additional oil and gas development in certain areas across the WRNF, including the area locally known as Four-Mile/Thompson Divide (concerns include the natural character of these lands, and potential impacts to recreation, ranching, outfitting, air quality and wildlife as a result of making this area available for leasing);
- Concern about heavy industrial traffic through downtown Glenwood Springs and other residential areas, including concerns expressed by the communities of Glenwood Springs and Carbondale regarding safety and the ability of their roads to handle this type of traffic;
- Potential impacts to fish and wildlife, and the economic and social value of recreation, outfitting, hunting and fishing;
- Areas where development is most likely to occur (over the life of their plan), given natural gas prices, exploration costs, and known reserves; attempting to make lands available for leasing with high oil and gas potential and where development has occurred in the last decade or so, since existing development is an indicator of what may occur in the future given the record high natural gas prices in 2007– 2008; and
- Focusing leasing availability on lands that have proven to be productive to allow for continued supply while also minimizing impacts and providing the opportunity to utilize shared infrastructure on a smaller area of the WRNF.

By exercising its discretionary authority to cancel the 25 leases that have not yet been developed, the decisions in this ROD align with the Forest Service's planning goals for future leasing within the same area, which the Forest Service has decided to close to leasing for the reasons outlined in its 2015 WRNF Final ROD. In doing so, the BLM has reviewed the comments of the affected lessees, and has considered the extent of their efforts to develop the leases. All of the leases to be cancelled were sold at the minimum bid in

2003, for 10-year terms, and are held by two companies, SG Interests, Ltd. (SG) and Ursa Piceance, LLC (URSA). In summary, SG asserts that efforts to develop the leases began internally in 2007, culminating with the submission of a unitization proposal to BLM in 2011. SG also submitted 6 APDs in 2012 and 2013. URSA asserts, in short, that efforts to develop its leases began in 2008, and continued with an APD submission and approval in 2012, and submission of a unitization application to BLM in 2012. The BLM stopped processing the unitization applications pending completion of its EIS. All the leases to be cancelled are in non-producing status and are currently under suspensions of operations and production granted at the BLM's discretion at the request of the companies.

The BLM has carefully considered the interests of SG and URSA and the potential benefits and environmental impacts of continuing the existing leases, as well as the interests of Cooperating Agencies and the public (all of which were disclosed and analyzed during the NEPA process). Specifically, the BLM has weighed the potential benefits of continuing the 25 non-producing leases against the environmental impacts of potential future development, including impacts to the natural character of the area and nearby communities. As noted above, the Forest Service has decided through its own processes to close that area to future leasing, based on similar concerns as detailed in the USFS ROD. Cancellation of the leases will eliminate the potential environmental impacts of development activities to the human environment, and will help preserve the non-industrial character of the area, in furtherance of the current planning goals for the area. Economic impacts to lessees due to any cancellations will be reduced by the refund or credit of any bonus bids and rental payments.

By proposing modification to an additional 13 undeveloped leases in areas the Forest Service has retained as open to future leasing, the BLM ensures the adequacy of environmental protections in these areas as defined by the surface management agency (Forest Service), while still allowing for the orderly development of federal minerals. Further, these areas remain open to nomination, leasing, and potential development per the Forest Service plan, and this decision aligns with those Forest Service goals. Finally, by reaffirming 24 producing or committed leases, in some cases with minor additional stipulations, the BLM reflects the Forest Service's 1993 intent with respect to those parcels, which notably remained open to development in the most recent Forest Service ROD. Reaffirming those leases is also consistent with the prior consent and approval for the development and productions from those leases provided by the Forest Service previously.

In addition to acknowledging the Forest Service's management goals, the BLM has considered a number of other environmental, economic, and technical effects as disclosed in the Final EIS's analysis to arrive at this decision, including::

- Socioeconomics: This decision is expected to retain approximately 91 percent of the gas production and revenue, full time employment, and labor income expected under the No Action Alternative. It would similarly retain approximately 94 percent of average annual revenues to local governments.
- Transportation: This decision will largely remove the potential for future impacts of industrial oil and gas vehicle traffic to Glenwood Springs, Carbondale, and along Four-Mile Road. Local Cooperating Agencies and municipalities identified major conflicts between industrial traffic use and local communities in scoping and assisted with the development of appropriate analysis in the Final EIS.
- Surface water protection: This decision will provide higher levels of protection and lower risks to Colorado Source Water Assessment and Protection (CSWAP) and Source Water Protection Plan (SWPP) zones than under the No Action Alternative, Alternative 2, or Alternative 3. Approximately 98 percent of those areas will be precluded from surface disturbance, while still allowing for the orderly development of the leases in the areas with the highest likelihood of near-future development and without affecting producing leases.
- Greenhouse gas emissions/climate change: This decision is made after consideration of the impacts of greenhouse gas emissions and climate change from the preferred and other alternatives disclosed in the Final EIS, consistent with applicable Council on Environmental Quality Guidance.

- Technical considerations: The decision largely reaffirms producing leases, with limited added timing limitations on 3 leases to ensure consistency with the Forest Service's WRNF Oil and Gas Leasing ROD. Modification or cancellation of producing leases would result in considerable technical challenges for the BLM that collectively outweigh the environmental concerns identified for future leasing and development by the Forest Service. Those concerns for producing leases may instead be addressed through development-specific mitigation, design features, and site-specific COAs. Technical factors include the potential for orphan wells (i.e., a producing well with no owner, should a decision lead to lease cancellation) and/or plugging and abandonment of wells, uncertain judicial action in the event that cancellation is pursued, costs and disruption of abandonment and reclamation, and BLM oversight of producing orphan wells.
- Lease history: As explained, each of the leases cancelled under this decision was issued in 2003, and none have been subsequently developed despite record gas prices in 2007–2008. These leases are in a more remote and less developed area of the WRNF that possesses less available infrastructure to support such development activities. Thus, the cancellation of these leases is less likely to substantially affect local communities and governments economically. Although the leases to be modified have similarly not been developed, they generally sit adjacent to more developed areas, and therefore retaining them tracks the Forest Service analysis. Additionally, producing leases and those committed to agreements have histories of known, measureable, or foreseeable development. Changes to the terms of these leases would result in known effects to production and economies, not simply to the potential for future development. The development plans on these producing leases have also had site-specific Forest Service and BLM analysis, and have obtained the necessary concurrences and/or approvals. The cancellation of these producing leases would likely have had a substantial effect on local communities and governments.

The decision was selected by the BLM and approved by DOI after careful consideration of agency and public comments (including comments by affected lessees) on the Draft and Final EISs, review of the Final EIS, and consultation with affected Tribes and Cooperating Agencies.

6. MITIGATION MEASURES

The decision whether to reaffirm, modify, or cancel leases does not itself directly authorize development or cause impacts (and rather is a precursor or interim step in potential development); however, the alternatives considered a range of protective stipulations. Lease development activities are primarily regulated by the Forest Service and other agencies. Accordingly, mitigation measures for lease development activities are more appropriately considered during the APD process, by or in consultation with other regulatory agencies, after operators submit a site-specific plan of operations for evaluation. During the APD process, potential resource issues would be identified at the onsite review. Based on the resources identified, the site-specific environmental analysis at the APD stage may identify mitigation measures to be attached to the approved permit as COAs. Such site-specific analysis is beyond the scope of this analysis.

7. AGENCY COORDINATION AND CONSULTATION

The BLM invited 23 federal and state agencies, Tribes, counties, and municipalities to become Cooperating Agencies in letters sent to each organization on July 3, 2014. Of them, 13 agencies and local governments accepted the invitation to be a Cooperating Agency, listed below:

- U.S. Environmental Protection Agency, Region 8
- Colorado Division of Natural Resources, Colorado Parks and Wildlife
- U.S. Forest Service (White River National Forest)
- Garfield County
- Mesa County

- Pitkin County
- Rio Blanco County
- City of Glenwood Springs
- City of Rifle
- Town of Carbondale
- Town of New Castle
- Town of Parachute
- Town of Silt

Cooperating Agency meetings were held at the CRVFO as needed to keep the Cooperating Agency representatives informed and obtain their input. This input included comments on the types of information and data they could provide to support the NEPA process, comments on the preliminary range of alternatives, and reviews of sections of the EIS related to their special expertise. Key issues related to agency consultation included biological resources, socioeconomics, transportation, and water resources.

In a letter dated September 22, 2016, the Forest Service confirmed that this decision is consistent with their prior consent granted during the original process to lease the 65 parcels.

7.1 Endangered Species Act Section 7 Consultation

Under the provisions of section 7(a)(2) of the Endangered Species Act, 16 U.S.C. 1536(a)(2), a federal agency that carries out, permits, licenses, funds, or otherwise authorizes an activity must consult with the U.S. Fish and Wildlife Service (USFWS) as appropriate to ensure the action is not likely to jeopardize the continued existence of any species listed under the Endangered Species Act or result in the destruction or adverse modification of designated critical habitat.

The BLM formally consulted with the USFWS to determine the appropriate steps for protection of these species under the Preferred Alternative. The USFWS reviewed the Biological Assessment submitted by the BLM and issued a consultation memorandum on May 19, 2016 concurring with the BLM's no effect or not likely to adversely affect determinations for the species identified in the Biological Assessment and consultation memorandum, which were included in Appendix F of the Final EIS. This decision's slight modification to the Preferred Alternative applies additional stipulations applicable to the protection of species listed under the Endangered Species Act. Because this decision is within the scope of what the USFWS considered, further consultation is not required.

7.2 National Historic Preservation Act Section 106 Consultation

Section 106 of the National Historic Preservation Act, 54 U.S.C. 306108, requires federal agencies to take into account the effects of their undertakings on historic properties. Historic properties are properties that are included in the National Register of Historic Places or that meet the criteria for inclusion in the National Register. If an agency has determined that its undertaking may affect historic properties, it must identify the appropriate State Historic Preservation Officer/Tribal Historic Preservation Officer (SHPO/THPO) to consult with during the process. If the Agency determines that it has no undertaking, or that its undertaking is a type of activity that has no potential to affect historic properties, the agency has no further Section 106 obligations.

Since leasing is an action that sets the stage for additional development activities, it has the potential to affect historic properties. However, standard lease terms provide reasonable measures to minimize adverse impacts by allowing for modification to the siting or design of facilities (e.g., well sites may be moved at least 200 meters without interfering with the lease rights (43 CFR 3101.1-2)).

It is important to note that any decision to reaffirm, modify, or cancel existing leases would not approve any on-the-ground activities and does not restrict any managers' authority to fully consider the potential effects on historic properties prior to development, including the ability to approve, modify, or deny a development proposal based on consideration of such effects. Any potential site-specific impacts to historic properties will be analyzed and documented in subsequent site-specific NEPA analyses, when the details of proposed exploration/development activities are clear. However, the analysis in the EIS does compare the potential for post-leasing development to affect historic properties in different areas of the WRNF based on the stipulations and lease cancellations considered under each alternative.

On April 22, 2016, the BLM sent Colorado's SHPO an informational letter describing the undertaking and its potential for effects on historic properties. In the letter, the BLM notified the SHPO that pursuant to the 2014 Protocol agreement between the Colorado BLM and the SHPO,¹⁰ this undertaking does not exceed any of the review thresholds that would require SHPO concurrence, and that there will be no adverse effect to historic properties. The SHPO followed up on May 4, 2016 requesting additional information, which the BLM provided in a response on May 25, 2016. The SHPO responded on June 15, 2016, concurring with the BLM's finding of no effect for cancelled leases, and suggested phased identification of effects as more specific development proposals are developed for other leases. Based on the SHPO's and BLM's determination of no effect on historic properties under Section 106 of the National Historic Preservation Act, the BLM does not need to prepare a Memorandum of Agreement or a Programmatic Agreement covering these decisions. Because this decision is within the scope of what the SHPO considered, further consultation is not required.

7.3 Government-to-Government Consultation

Native American tribes have a unique legal and political relationship with the government of the United States. Executive Order 13175 directs Federal agencies to coordinate and consult on a government-to-government basis with sovereign Native American tribal governments whose interests may be directly and substantially affected by activities on federally administered lands. Other laws, regulations, DOI guidance, and executive orders require consultation to identify the cultural values, religious beliefs, traditional practices, and legal rights of Native American people that could be affected by BLM actions on Federal lands. Under Section 106 of the National Historic Preservation Act and the Advisory Council on Historic Preservation implementing regulations for that section, federal agencies are required to consult with Native American tribes, depending on the specifics of the undertaking. Consultation may also be required under the American Indian Religious Freedom Act of 1978, the Native American Graves Protection and Repatriation Act, DOI Secretarial Order No. 3215 (2000), DOI Secretarial Order No. 3317 with DOI Tribal Consultation Policy (2011), 512 Department Manual Chapter 2 (1995), BLM Manual Handbook H-8160-1, and Executive Order 13007, Indian Sacred Sites (1996).

Tribal consultation for the EIS began in April 2014 when the BLM Field Manager sent a scoping letter via certified mail to the Ute Indian Tribe (Uintah and Ouray Reservation), Ute Mountain Ute Tribe, and Southern Ute Indian Tribe. The letter extended an offer for government-to-government consultation, informed the Tribes of the proposed undertaking, and solicited their concern/comments regarding possible historical and/or traditional ties to the area or the presence of properties of traditional religious and cultural importance.

On May 5, 2014, the Southern Ute Indian Tribe Cultural and Preservation Department responded that they had identified properties of cultural and religious significance within the area of potential effect (APE) that are eligible for listing in the National Register that would be adversely affected. No site-specific information or locational data was provided with the response.

¹⁰ Available at: http://www.achp.gov/blm/CO_Protocol_Final_10-29-2014.pdf.

On July 3, 2014, the BLM Field Manager sent certified letters to the Ute Indian Tribe (Uintah and Ouray Reservation), Ute Mountain Ute Tribe, and Southern Ute Indian Tribe inviting them to participate as a Cooperating Agency in the development of the EIS. The letters included a draft memorandum of understanding for Cooperating Agency status. The letter suggested scheduling a meeting in August 2014 to discuss the memorandum of understanding and how the Tribes might want to be involved in the project. No responses were received from the Tribes.

On June 1, 2015, the BLM Acting Field Manager sent certified letters to the Ute Indian Tribe (Uintah and Ouray Reservation), Ute Mountain Ute Tribe, and Southern Ute Indian Tribe requesting continuation of government-to-government consultation. The letter acknowledged the concern outlined in the May 5, 2014 letter from the Southern Ute Indian Tribe, requested that the Tribes provide comments or concerns regarding the effects of the alternatives to cultural resources or areas of traditional or religious concern, and offered the Tribes the opportunity for a face-to-face meeting with the Forest Service or the BLM. No responses were received.

On April 22, 2016, the BLM sent a letter to the Tribes that identified the Preferred Alternative and summarized cultural resource records within the area of potential effect (including potential Traditional Cultural Properties). The letter also offered the opportunity for comments or clarifications. No responses were received. The decision's slight modification to the Preferred Alternative applies additional stipulations within the area of potential effect. The BLM will continue to offer opportunities for the Tribes to identify properties of possible traditional religious and cultural importance that may be affected by the decision and to express their concerns throughout the administration and potential development of these leases.

7.4 Consistency with State and Local Plans

No inconsistencies between this decision and any state, county, or local plans were identified. The state agencies, county government, and local municipalities participated as Cooperating Agencies in the NEPA process.

8. PUBLIC INVOLVEMENT AND COMMENTS RECEIVED

8.1 Overview

The Council on Environmental Quality regulations require that agencies “make diligent efforts to involve the public in preparing and implementing their National Environmental Policy Act procedures” (40 CFR 1506.6(a)). Public involvement in the EIS process includes the steps necessary to identify and address public concerns and needs. The public involvement process assists agencies in: 1) broadening the information base for decision making; 2) informing the public about proposed actions and potential long-term impacts that could result from reaffirming, modifying, or cancelling existing leases; and 3) ensuring that public needs are understood by the agencies.

Public involvement and comments were requested, considered, and incorporated throughout the EIS process.

8.2 Scoping

The scoping comment period began April 2, 2014, with the publication of the Notice of Intent (NOI) to prepare an EIS in the Federal Register (FR). The NOI notified the public of the BLM's intent to prepare an EIS for Previously Issued Leases in the WRNF and the beginning of a 30-day scoping period. The BLM subsequently extended the comment period an additional 14 days. The scoping comment period ended on May 16, 2014.

The public scoping period and scoping meetings were announced via the NOI, news releases to local media, and project website postings. Additionally, the BLM mailed scoping notification letters to 23

stakeholders on or about April 2, 2014. The BLM hosted four scoping meetings in Glenwood Springs, De Beque, Carbondale, and Aspen, Colorado in April and May 2014 with a signed-in attendance of 772 people.

Members of the public were able to submit comments via the following methods: filling out comment cards and/or providing formal oral comments at scoping meeting(s); emailing comments; mailing comments via the U.S. Postal Service; or faxing comments. All comments were considered equally regardless of submittal method. The BLM received a total of 32,318 submittals during the scoping period which were used to identify issues and draft alternatives for evaluation in the Draft EIS.

8.3 Draft EIS

Comments on the Draft EIS were obtained through the NEPA public involvement process, which included publishing a Notice of Availability (NOA) for the Draft EIS in the FR, news releases and notification emails, and public meetings. The news release announcing the public comment period was issued on November 17, 2015, and the FR NOA was made available 3 days later on November 20, 2015. As the deadline to submit comments was January 8, 2016, the document was available to the public for 51 days. The public comment period and public meetings were announced through the NOA, a BLM news release, and email announcements.

The BLM hosted three public meetings in December 2015 with a signed-in attendance of 342 people. The locations, meeting dates, and number of attendees are as follows:

- Glenwood Springs, Colorado – Monday, December 14, 2015 (94 attendees)
- De Beque, Colorado – Tuesday, December 15, 2015 (8 attendees)
- Carbondale, Colorado – Wednesday, December 16, 2015 (240 attendees)

At each meeting, the BLM provided information about the analysis contained in the Draft EIS and solicited input on the analysis during a formal oral comment period. Attendees were also able to submit written comments.

During the formal comment period, the BLM received a total of 60,515 comments, in the form of letters, emails, faxes, oral testimony recorded at a public meeting, or other methods. Comments varied in content, ranged from one to several comment areas containing technical information, suggestions for improving the content of the Draft EIS, or personal opinions. The majority were form letters submitted by more than one person containing identical or near identical text. Comments were analyzed for content, and the resulting comment content was grouped by resource issue and categorized as substantive or non-substantive. On June 10, 2016, the BLM received addendums to two Draft EIS comments. The addendum referenced a new study to be considered in the Final EIS. The BLM determined the new study constituted best available scientific information to inform BLM's NEPA process and updated the EIS to include this data. In accordance with NEPA guidelines, the BLM has formally responded to all comments identified as substantive. Written responses to the substantive comments appear in Appendix E of the EIS.

8.4 Final EIS

The Environmental Protection Agency (EPA) published a NOA for the Final EIS in the Federal Register (Volume 81, No. 51936 / 8/5/2016, page 51936) on August 5, 2016 releasing the Final EIS for public availability. Even though there was no comment period provided on the Final EIS, the BLM received over 60,000 comments following the publication of the Final EIS. Most comments were form letters. All of these comments were reviewed and considered in preparing this ROD (**Attachment 5, Summary of Public Comments on the Previously Issued Leases on the White River National Forest Final Environmental Impact Statement**). The comments did not identify or present any significant new information that would

warrant additional analysis under NEPA. A summary of the comments received and the BLM's responses can be found in **Attachment 5** to this ROD.

9. CHANGES BETWEEN FINAL EIS AND ROD

9.1 Lease Status Changes Affecting the Decision

The BLM's decision represents a modification of the Preferred Alternative in the Final EIS due to unit contractions, lease expirations, and lease terminations affecting 11 of the 65 previously issued leases. Three leases are removed from the decision entirely, 5 leases have provisional decisions, and 3 leases are now offered modified lease terms based on a change in their status since the Final EIS was prepared. Sections 9.1.1 through 9.1.3 describe each type of lease status change and identify how the decision specifically addresses the change.

9.1.1 Lease Termination and Expirations Not Subject to Appeal

During the EIS process, one lease (COC 067543) expired and two leases (COC 76123 and COC 72157) were terminated; none of these events are subject to appeal. As such, no decision remains to be made with respect to these leases and they are not included in the BLM's decision.

9.1.2 Lease Termination and Expirations Subject to Appeal

Prior to or during preparation of the EIS, 5 leases expired but are subject to appeal:

- Leases COC 58835, COC 58840, COC 58841 and COC 66913 expired due to a unit contraction that is currently under appeal to the IBLA; and
- The decision that lifted the lease suspension of lease COC 66948 prior to expiration is also under appeal.

As discussed in Section 4, the BLM's decision addresses the provisional status of these leases. Under the decision, leases COC 58835, COC 58840, COC 58841, COC 66913 would be reaffirmed should the Willow Creek Unit contraction be overturned on appeal. Lease COC 66948 would be modified should the IBLA overturn the BLM decision to lift the lease suspension and the BLM reauthorizes the lease. If the IBLA affirms these decisions, then these expired leases would be unaffected by this ROD. Any future leasing of such parcels would be governed by the applicable Forest Service plan/decision.

9.1.3 Other Lease Status Changes

During the EIS process, the production status of leases COC 067147, COC 070013, and COC 070361 changed from "producing" to "undeveloped" due to a unit contraction (see also Section 4). As a result, the BLM's decision offers modified lease terms consistent with Alternative 4 of the Final EIS.

9.2 Final EIS Corrections

The following are corrections to minor errors in the Final EIS. The section in which the correction occurs is **bolded and underlined**. Final EIS text is in italics with errors **highlighted**. The correction follows the excerpted text.

2.3.3, Table 2-3 Lease Stipulations Under Alternative 3

<i>Zone</i>	<i>Lease No.</i>	<i>Lease Acres</i>	<i>Type of Stipulation</i>	<i>Type of Restriction</i>	<i>Acres or Miles of Restriction</i>
2	067147	783	NSO	<i>Authorized Sites and Facilities</i>	26
				<i>Raptor Species Breeding Territories</i>	110

Zone	Lease No.	Lease Acres	Type of Stipulation	Type of Restriction	Acres or Miles of Restriction
				Roadless Areas	779
				Severe or High Landscape Stability Hazards	39
				Slope Greater than 50%	36
				TEPC Wildlife Species	72
				Water Influence Zones	107
				Public Water Supply Source Area Protection	48

Explanation of Correction: For Lease 067147, one NSO stipulation was erroneously omitted in Table 2-3: NSO-Public Water Supply Source Area Protection in the ROD attachment, 48 acres. The stipulation is added to the above table. This stipulation was analyzed under Alternatives 3 and 4 in the Final EIS, thus no corrections to the Chapter 4 analysis are needed.

2.3.6, Table 2-6 Stipulations on Each Lease under Preferred Alternative

Zone	Lease No.	Lease Acres	Type of Stipulation	Type of Restriction	Acres or Miles of Restriction
2	066917	1,920	CSU	Authorized Sites and Facilities	270
				Big Game Production Areas	70
				Big Game Summer Concentration	924
				Big Game Winter Ranges	99
				High Concern Travel Ways or Use Areas	1,201
				Highly Erodible Soils	1,337
				Paleontological Resources	1,452
				Plant Species of Local Concern	915
				Sensitive Aquatic Species	534
				Sensitive Plant Species	1,708
				Sensitive Terrestrial Avian Invertebrate Species	920
				Slopes 30 to 50 Percent	277
				Watersheds with CRCT and GBCT Conservation Populations	206
				Designated Winter Groomed Routes	1.5 miles
				Cultural Resources	1,920
				Elk Production Area-GMUGNF	439

Explanation of Correction: Lease 066917 has one CSU stipulation that was erroneously omitted from Chapter 2: Elk Production Area-GMUGNF. The stipulation acreage is 439 acres within this lease. This stipulation is added to the above table. This did not affect the analysis of impacts. See correction to Section 4.7.4.6, Preferred Alternative, below.

3.6.1 Special Status Plant Species and Significant Plant Communities

This section discusses four categories of special status plants: 1) threatened and endangered species and their critical habitat, 2) BLM sensitive species, 3) Forest Service Regional Forester's sensitive

species, and 4) Forest Service local concern species. Significant plant communities also are discussed in this section. The Forest Service prepared a Biological Assessment (BA) (USFS 2014e) and Biological Evaluation (BE) (USFS 2014f) as part of the WRNF Oil and Gas Leasing Final EIS (USFS 2014a) for all potentially affected special status plant species that could occur within the WRNF.

Explanation of Correction: Corrections to references as cited in Final EIS text. The correct reference is for the BA is USFS 2015e. The correct reference is for the BE is USFS 2014e. Both references are correctly included in the Final EIS reference section.

3.6.1 Special Status Plant Species and Significant Plant Communities, Table 3.6-1 of the Final EIS, Vegetation Cover Types within the Analysis Area

Footnote 2 The Riparian/Wetland cover acreage was determined separately from the general vegetation by analyzing three separate data sources: FS Veg, National Wetland Inventory, Forest Service Water Influence Zones data, and Forest Service Fen data. Portions of these datasets overlap portions of other general vegetation cover types.

Explanation of Correction: The footnote correctly notes that multiple datasets were used but there were four primary data sources (not three) and six data sources in total. The correct datasets and dates of publication are listed below:

- Forest Service Water Influence Zones: the dataset was published in 2010.
- National Wetlands Inventory (NWI): The dataset was published 2014.
- Forest Service Vegetation data:
 - Riparian: The dataset was published in 1999.
 - General Vegetation: No publication date provided; identified time period of content is 2011.
- Forest Service Fen data: 2 datasets, one was published 2010. The other dataset has no identified publication date but was last processed in 2011.

4.1.2.2, Table 4.1.2: Past and Present Surface Disturbing Actions by CIAA

Table 2 footnote: Source: BLM 2015g; Colorado Oil and Gas Conservation Commission (COGCC) 2015b; Colorado Department of Transportation (CDOT) 2015; U.S. Department of Transportation (USDOT) 2013.

Explanation of Correction: Corrections to references as cited in Final EIS text. The correct CDOT reference is CDOT 2014b and is provided in **Section 6.0 Reference** corrections, below.

4.7.2; Table 4.7 2 Stipulations Associated with Terrestrial Wildlife Under Alternatives 3 and 4

CSU
<i>Big Game Migration Corridors</i>
<i>Big Game Production Areas</i>
<i>Big Game Summer Concentration</i>
<i>Big Game Winter Ranges</i>
<i>Elk Production Area—GMUGNF</i>
<i>Sensitive Terrestrial/Avian/ Invertebrate Species</i>

NSO
<i>Bighorn Sheep Migration Corridors and Water Sources</i>
<i>Bighorn Sheep Production</i>
<i>Bighorn Sheep Summer Concentration</i>
<i>Raptor Species Breeding Territories</i>
<i>TEPC Raptor Species</i>
<i>TEPC Wildlife Species and Habitats</i> Wallace Creek Wildlife Seclusion Area
TL
<i>Big Game Summer Concentration (June 16 through October 14; applies to deer, elk, moose, and black bear)</i>
<i>Big Game Winter Range (December 1 through April 14 applies to deer, elk, and moose and includes winter ranges, winter concentration areas, and severe winter ranges)</i>
Big Game Winter Range—GMUGNF
<i>Raptor Species Breeding Territories (NSO buffers and dates vary by species)</i>

Explanation of Correction: In Table 4.7-2, a TL Big Game Winter Range – GMUGNF stipulation was erroneously omitted from the table. While this stipulation was not explicitly referenced in the analysis of the Preferred Alternative, the reported coverage to Big Game Winter Range from the application of the other TL stipulations within Zone 2 (this lease's zone) is 100 percent, so the EIS's analysis remains unchanged.

4.7.4.6 Preferred Alternative

Stipulation Coverage

Under the Preferred Alternative, NSO stipulations providing coverage to terrestrial wildlife species includes:

- *Big Game Winter Range and Critical Bighorn Sheep Habitats*
- *Raptor Species Breeding Territories*
- *TEPC Raptor Species*
- *TEPC Wildlife Species*

CSU stipulations under the Preferred Alternative are as follows:

- *Big Game Migration Corridors, Big Game Production Areas, Big Game Summer Concentration, Big Game Winter Ranges*
- Elk Production Area - GMUGNF
- Sensitive Terrestrial/Avian/Invertebrate Species

TL Stipulations under the Preferred Alternative are as follows:

- *Big Game Winter Range*
- *Big Game Winter Range (GMUGNF)*
- *Big Game Summer Concentration Areas*
- *Elk Production Areas*
- *Raptor Species Breeding Territories*

- Bald Eagle Winter Roost and Perch Sites

Explanation of Correction: A CSU Elk Production Area – GMUGNF stipulation was erroneously omitted from the list of stipulations that would be applied under the Preferred Alternative. As shown on Figure 3.7-3 of the Final EIS, the affected lease, COC 66917, does not contain any currently mapped elk production areas. As a result, there is no resulting increase in coverage to Elk Production Areas under the Preferred Alternative from the application of this stipulation.

6.0 References

Colorado Parks and Wildlife (CPW). 2011. Elk. Colorado Department of Natural Resources. Internet website: <http://wildlife.state.co.us/WildlifeSpecies/Profiles/Mammals/Pages/Elk>. Date accessed: May 12, 2012.

Explanation of Correction: Corrections to references as cited in Final EIS text. This reference is not cited in the EIS. The correct reference is: Colorado Parks and Wildlife (CPW). 2011. Colorado Parks and Wildlife (CPW). 2011. D - 13 (Maroon Bells Deer), DATA ANALYSIS UNIT PLAN, Game Management Units 43, 47, and 471. Colorado Division of Wildlife, Glenwood Springs, CO. May 3, 2011.

U.S. Fish and Wildlife Service (USFWS). 2013. Recovery Implementation Program for Endangered Fish Species in the Upper Colorado Basin (Recovery Plan).

Explanation of Correction: Corrections to references as cited in Final EIS text. This reference is not cited in the EIS.

Colorado Department of Transportation (CDOT). 2015. Online Transportation Information System data catalog. Internet website: <http://dtdapps.coloradodot.info/otis>. Date accessed: March 22, 2015.

Explanation of Correction: Corrections to references as cited in Final EIS text. This reference should have been CDOT 2014b, which was not provided. The correct reference is Colorado Department of Transportation (CDOT). 2014b. Notice of Proposed Action, Colorado Department of Transportation Colorado State Highway 133 Horseshoe Bend Fill Site and Placita Restoration.

Appendix B, Table B-2: Past and Present Surface Disturbing Actions by CIAA

Table footnote: Source: Source: BLM 2015a, 2014a, COGCC 2015, CDOT 2015, USDOT 2013.

Explanation of Correction: Corrections to references as cited in Final EIS text. The correct CDOT reference is CDOT 2014b and is provided in **Section 6.0 Reference** corrections.

Appendix E, BLM responses on pages E-84, E-85, E-99, E-127, E-179; E-181 and E-184 regarding the ability of BLM to cancel leases

Explanation of Correction: Section 1.2 of the Final EIS was revised in response to these comments. The revised section is as follows:

The BLM has the authority to cancel a lease if it was improperly issued (43 CFR § 3108.3(d)). The Secretary of the Interior has inherent authority, under her general managerial power over public lands, to cancel leases issued in violation of a statute or regulation. That authority is not superseded by the Mineral Leasing Act (MLA). That authority is reflected in MLA's implementing regulations. Under this authority, BLM may cancel leases if they were issued in violation of NEPA or other laws. The IBLA has characterized as "void" and "a legal nullity" any lease issued for lands that were not legally available for leasing at the time they were issued. In contrast, it has characterized as

“voidable” any lease issued in violation of a procedural requirements, such as NEPA, which does not compel any particular decision. In other words, a void lease is one that suffers from a substantive defect that BLM cannot cure, such as including lands that were not available for BLM to lease at the time they were issued. A voidable, cancelable lease is one that suffers from a procedural defect that BLM may be able to correct at its discretion with further action on its part.

The responses to comments on ages E-84, E-85, E-99, E-127, E-179; E-181 and E-184 should have contained a reference to the revised text in the Final EIS.

10. SUMMARY AND CONCLUSION

The BLM is tasked with sustaining the health, diversity, and productivity of America’s public lands for the use and enjoyment of present and future generations. It is a multiple-use mission that requires the balancing of land and resource uses. Notably, the BLM has a specific role and obligation in working with the Forest Service to manage oil and gas resources and foster and encourage private enterprise in the development of economically sound and stable industries within NFS lands, including the WRNF. The BLM is also responsible for the “orderly and economic development of domestic resources to help assure satisfaction of industrial, security, and environmental needs” (Mining and Minerals Policy Act of 1970) while continuing to sustain the land’s productivity for other uses and capability to support biodiversity goals (Forest Service Minerals Program Policy)¹¹.

For the reasons explained in this document, the BLM’s decision is made because it best balances and meets the BLM’s obligations and multiple-use responsibilities.

Throughout the EIS process, the BLM fully evaluated a range of Alternatives and that analysis supports this decision. The modification of the Preferred Alternative is selected with full consideration of Cooperating Agencies and public input.

11. FURTHER INFORMATION

For further information, contact Mr. Greg Larson, Project Manager, BLM CRVFO, 2300 River Frontage Road, Silt, Colorado 81652; telephone: (970) 876-9000.

¹¹ See: <http://www.fs.fed.us/geology/FOREST%20SERVICE%20MINERALS%20PROGRAM%20POLICY.pdf>.

12. STATE DIRECTOR DECISION

It is my decision to implement this slight modification of the Preferred Alternative, including all sub-decisions thereof as set forth in this Record of Decision. These decisions are effective on the date this Record of Decision is signed.



Ruth Welch
State Director
BLM Colorado

11/17/16

Date

13. SECRETARIAL APPROVAL

I hereby approve these decisions. My approval of these decisions constitutes the final decision of the Department of the Interior and, in accordance with the regulations at 43 CFR 4.410(a)(3), is not subject to appeal under departmental regulations at 43 CFR Part 4. Any challenge on these decisions must be brought in federal district court.



Michael L. Connor
Deputy Secretary
Department of the Interior

NOV 17 2016

Date

This page is intentionally left blank

Attachment 1

Summary of How Stipulations Apply Under the Decision

COC	Additional Comments
Alternative 2 Stipulations Apply	
058677	Approximately 5 acres TL added to this lease
059630	No change from current lease stipulations
066727	No change from current lease stipulations
066728	No change from current lease stipulations
066729	No change from current lease stipulations
066730	No change from current lease stipulations
066731	No change from current lease stipulations
066732	No change from current lease stipulations
066733	No change from current lease stipulations
066926	No change from current lease stipulations
061121	No change from current lease stipulations
066724	No change from current lease stipulations
066918	No change from current lease stipulations
066920	No change from current lease stipulations
067150	No change from current lease stipulations
067544	No change from current lease stipulations
058836	No change from current lease stipulations
058837	No change from current lease stipulations
058838	No change from current lease stipulations
058839	No change from current lease stipulations
Alternative 2 Stipulations Apply If Unit Contraction Under Appeal Is Overturned	
058835	Contracted from Willow Creek Unit; expired but under appeal
058840	Contracted from Willow Creek Unit; expired but under appeal; add TL for snowmobile corridor (88 acres)
058841	Contracted from Willow Creek Unit; expired but under appeal; add TL for snowmobile corridor (327 acres)
066913	Contracted from Willow Creek Unit; expired but under appeal
Alternative 4 Stipulations and Cancellations Apply	
066723	New stipulations apply
066915	New stipulations apply
066916	New stipulations apply
066917	New stipulations apply
067147	New stipulations apply
067542	New stipulations apply
070013	New stipulations apply
070014	New stipulations apply

COC	Additional Comments
070015	New stipulations apply
070016	New stipulations apply
070361	New stipulations apply
075070	New stipulations apply
066687	Cancelled in Full
066688	Cancelled in Full
066689	Cancelled in Full
066690	Cancelled in Full
066691	Cancelled in Full
066692	Cancelled in Full
066693	Cancelled in Full
066694	Cancelled in Full
066695	Cancelled in Full
066696	Cancelled in Full
066697	Cancelled in Full
066698	Cancelled in Full
066699	Cancelled in Full
066700	Cancelled in Full
066701	Cancelled in Full
066702	Cancelled in Full
066706	Cancelled in Full
066707	Cancelled in Full
066708	Cancelled in Full
066709	Cancelled in Full
066710	Cancelled in Full
066711	Cancelled in Full
066712	Cancelled in Full
066908	Cancelled in Full
066909	Cancelled in Full
Alternative 4 Stipulations Apply If the Lease Reauthorized Through Appeal Process	
066948	Expired lease- Alternative 4 stipulations apply only if the BLM reauthorized the lease through an appeal process
No Decision	
067543	Expired lease- no decision to be made.
072157	Terminated lease- no decision to be made
076123	Terminated lease- no decision to be made

TL= timing limitation

Attachment 2

Stipulations Applied to Modified Leases Under the Decision

Lease No.	Lease Acres	Type of Stipulation ¹	Type of Restriction	Acres ² or Miles of Stipulation/SLT
66723	1,280	NSO	Authorized Sites and Facilities	829
			Raptor Species Breeding Territories	120
			Roadless Areas	71
			Severe or High Landscape Stability Hazards	36
			Slope Greater Than 50 Percent	40
			TEPC Aquatic Species	1,077
			Water Influence Zones	174
		CSU	Authorized Sites and Facilities	1,165
			Big Game Migration Corridors	92
			Big Game Summer Concentration	1,280
			Big Game Winter Ranges	1,280
			Highly Erodible Soils	1,045
			Moderately High Landscape Stability Hazards	2
			Paleontological Resources	1,280
			Sensitive Aquatic Species	122
			Sensitive Plant Species	1,280
			Sensitive Terrestrial/ Avian/ Invertebrate Species	1,031
			Slopes 30 to 50 Percent	422
			Cultural Resources	1,280
		TL	Big Game Summer Concentration	1,280
			Big Game Winter Range	1,280
			Raptor Species Breeding Territories	120
66915	2,537	NSO	Authorized Sites and Facilities	336
			Native Cutthroat Trout Habitat	41
			Raptor Species Breeding Territories	1,529
			Roadless Areas	1,916
			Severe or High Landscape Stability Hazards	86
			Slope Greater Than 50 Percent	176
			TEPC Raptor Species	503
			TEPC Wildlife Species	334
			Water Influence Zones	279
		CSU	Authorized Sites and Facilities	998
			Big Game Migration Corridors	165

Lease No.	Lease Acres	Type of Stipulation ¹	Type of Restriction	Acres ² or Miles of Stipulation/SLT
			Big Game Production Areas	1,845
			Big Game Summer Concentration	2,537
			Big Game Winter Ranges	2,456
			High Concern Travel Ways or Use Areas	662
			Highly Erodible Soils	2,082
			Moderately High Landscape Stability Hazards	8
			Paleontological Resources	2,537
			Sensitive Aquatic Species	465
			Sensitive Plant Species	2,537
			Sensitive Terrestrial/ Avian/ Invertebrate Species	2,169
			Slopes 30 to 50 Percent	1,349
			Designated Winter Groomed Routes	0.02 mile
			Cultural Resources	2,537
		TL	Big Game Summer Concentration	2,537
			Big Game Winter Range	2,325
			Raptor Species Breeding Territories	554
66916	2,562	NSO	Native Cutthroat Trout Habitat	10
			Raptor Species Breeding Territories	292
			Roadless Areas	2,562
			Severe or High Landscape Stability Hazards	115
			Slope Greater Than 50 Percent	135
			TEPC Wildlife Species	549
			Water Influence Zones	189
		CSU	Authorized Sites and Facilities	49
			Big Game Migration Corridors	175
			Big Game Production Areas	1,839
			Big Game Summer Concentration	2,376
			Big Game Winter Ranges	244
			High Concern Travel Ways or Use Areas	421
			Highly Erodible Soils	2,193
			Moderately High Landscape Stability Hazards	24
			Paleontological Resources	2,562
			Sensitive Aquatic Species	276
			Sensitive Plant Species	2,486
			Sensitive Terrestrial/ Avian/ Invertebrate Species	2,048
			Slopes 30 to 50 Percent	943
			Cultural Resources	2,562

Lease No.	Lease Acres	Type of Stipulation ¹	Type of Restriction	Acres ² or Miles of Stipulation/SLT
		TL	Big Game Summer Concentration	2,376
			Big Game Winter Range	136
			Raptor Species Breeding Territories	135
66917	1,920	NSO	Authorized Sites and Facilities	68
			High Geologic Hazard—GMUGNF	20
			Native Cutthroat Trout Habitat	8
			Roadless Areas	1,324
			Severe or High Landscape Stability Hazards	4
			Slope Greater Than 50 Percent	13
			TEPC Aquatic Species	563
			TEPC Plant Species	349
			TEPC Wildlife Species	139
			Water Influence Zones	109
		CSU	Authorized Sites and Facilities	270
			Big Game Production Areas	70
			Big Game Summer Concentration	924
			Big Game Winter Ranges	99
			Elk Production Areas (GMUGNF)	439
			High Concern Travel Ways or Use Areas	1,201
			Highly Erodible Soils	1,337
			Paleontological Resources	1,452
			Plant Species of Local Concern	915
			Sensitive Aquatic Species	534
			Sensitive Plant Species	1,708
			Sensitive Terrestrial/ Avian/ Invertebrate Species	920
			Slopes 30 to 50 Percent	277
			Watersheds with CRCT and GBCT Conservation Populations	206
			Designated Winter Groomed Routes	1.5 miles
			Cultural Resources	1,920
		TL	Big Game Summer Concentration	924
66948	2,562	NSO	Fen Wetlands	98
			Raptor Species Breeding Territories	2,085
			Severe or High Landscape Stability Hazards	18
			Slope Greater Than 50 Percent	39
			TEPC Aquatic Species	48
			TEPC Raptor Species	503
			TEPC Wildlife Species	1,239

Lease No.	Lease Acres	Type of Stipulation ¹	Type of Restriction	Acres ² or Miles of Stipulation/SLT
			Water Influence Zones	302
		CSU	Big Game Production Areas	1,709
			Big Game Summer Concentration	2
			Big Game Winter Ranges	469
			Ground Water Resources	89
			High Concern Travel Ways or Use Areas	1,421
			Highly Erodible Soils	1,176
			Moderate Scenic Integrity Objective	789
			Moderately High Landscape Stability Hazards	7
			Paleontological Resources	2,561
			Sensitive Aquatic Species	91
			Sensitive Plant Species	2,282
			Sensitive Terrestrial/ Avian/ Invertebrate Species	1,284
			Slopes 30 to 50 Percent	156
			Spruce Fir Old Growth and Old Growth Recruitment Stands	132
			Watersheds with CRCT and GBCT Conservation Populations	2,562
			Designated Winter Groomed Routes	4.1 miles
			Cultural Resources	2,562
		TL	Bald Eagle Winter Roost and Perch Sites	2,562
			Big Game Summer Concentration	2
			Big Game Winter Range	317
			Raptor Species Breeding Territories	587
067147	783	NSO	Authorized Sites and Facilities	26
			Public Water Supply Source Area Protection	48
			Raptor Species Breeding Territories	11
			Roadless Areas	779
			Severe or High Landscape Stability Hazards	39
			Slope Greater than 50%	36
			TEPC Wildlife Species	72
			Water Influence Zones	107
		CSU	Authorized Sites and Facilities	119
			Big Game Production Areas	628
			Big Game Summer Concentration	662
			Big Game Winter Ranges	780
			High Concern Travel Ways or Use Areas	497
			Highly Erodible Soils	573
			Moderate Scenic Integrity Objective	372

Lease No.	Lease Acres	Type of Stipulation ¹	Type of Restriction	Acres ² or Miles of Stipulation/SLT
			Moderately High Landscape Stability Hazards	25
			Paleontological Resources	779
			Sensitive Aquatic Species	210
			Sensitive Plant Species	779
			Sensitive Terrestrial Avian Invertebrate Species	614
			Slopes 30 to 50%	211
		TL	Big Game Summer Concentration	662
			Big Game Winter Range	462
67542	480	NSO	Severe or High Landscape Stability Hazards	375
			Slope Greater Than 50 Percent	330
			TEPC Wildlife Species	297
			Water Influence Zones	44
		CSU	Big Game Migration Corridors	67
			Big Game Production Areas	145
			Big Game Summer Concentration	343
			Big Game Winter Ranges	467
			High Concern Travel Ways or Use Areas	53
			Highly Erodible Soils	45
			Paleontological Resources	480
			Sensitive Plant Species	479
			Sensitive Terrestrial/ Avian/ Invertebrate Species	306
			Slopes 30 to 50 Percent	101
			Spruce Fir Old Growth and Old Growth Recruitment Stands	57
			Watersheds with CRCT and GBCT Conservation Populations	480
			Cultural Resources	480
		TL	Big Game Summer Concentration	343
			Big Game Winter Range	14
			Raptor Species Breeding Territories	43
070013	1,262	NSO	>60% Slope—GMUGNF	1
			Fen Wetlands	22
			High Geologic Hazard—GMUGNF	52
			Riparian/ Wetland—GMUGNF	3
			Roadless Area—GMUGNF	186
			Roadless Areas	1,200
			Severe or High Landscape Stability Hazards	41
			Slope Greater than 50%	46
			TEPC Aquatic Species	212

Lease No.	Lease Acres	Type of Stipulation ¹	Type of Restriction	Acres ² or Miles of Stipulation/SLT
			TEPC Wildlife Species	9
			Water Influence Zones	88
		CSU	40-60% Slope—GMUGNF	33
			Big Game Summer Concentration	942
			Big Game Winter Ranges	1,199
			Ground Water Resources	65
			Highly Erodible Soils	1,034
			Moderate Geologic Hazard—GMUGNF	173
			Paleontological Resources	1,036
			Sensitive Aquatic Species	212
			Sensitive Plant Species	1,255
			Sensitive Terrestrial Avian Invertebrate Species	478
			Slopes 30 to 50%	291
		TL	Big Game Summer Concentration	942
			Big Game Winter Range	796
70014	1,486	NSO	Authorized Sites and Facilities	251
			Fen Wetlands	38
			Native Cutthroat Trout Habitat	107
			Roadless Areas	1,485
			Severe or High Landscape Stability Hazards	24
			Slope Greater Than 50 Percent	49
			Summer Non-Motorized Recreation	781
			TEPC Aquatic Species	114
			TEPC Wildlife Species	1,163
			Water Influence Zones	168
		CSU	Authorized Sites and Facilities	722
			Big Game Production Areas	389
			Big Game Summer Concentration	1,486
			Big Game Winter Ranges	704
			Ground Water Resources	346
			Highly Erodible Soils	458
			Moderate Scenic Integrity Objective	1,187
			Moderately High Landscape Stability Hazards	155
			Paleontological Resources	1,486
			Sensitive Aquatic Species	219
			Sensitive Plant Species	1,394
			Sensitive Terrestrial/ Avian/ Invertebrate Species	1,277

Lease No.	Lease Acres	Type of Stipulation ¹	Type of Restriction	Acres ² or Miles of Stipulation/SLT
			Slopes 30 to 50 Percent	450
			Spruce Fir Old Growth and Old Growth Recruitment Stands	933
			Watersheds with CRCT and GBCT Conservation Populations	228
			Cultural Resources	1,486
		TL	Big Game Summer Concentration	1,486
70015	1,598	NSO	Authorized Sites and Facilities	118
			Native Cutthroat Trout Habitat	39
			Roadless Areas	1,595
			Severe or High Landscape Stability Hazards	317
			Slope Greater Than 50 Percent	324
			Summer Non-Motorized Recreation	31
			TEPC Aquatic Species	45
			TEPC Wildlife Species	824
			Water Influence Zones	136
		CSU	Authorized Sites and Facilities	445
			Big Game Production Areas	683
			Big Game Summer Concentration	1,598
			Big Game Winter Ranges	1,564
			Ground Water Resources	298
			Highly Erodible Soils	700
			Moderate Scenic Integrity Objective	1,004
			Moderately High Landscape Stability Hazards	115
			Paleontological Resources	1,598
			Sensitive Aquatic Species	81
			Sensitive Plant Species	1,231
			Sensitive Terrestrial/ Avian/ Invertebrate Species	1,124
			Slopes 30 to 50 Percent	671
			Spruce Fir Old Growth and Old Growth Recruitment Stands	420
			Watersheds with CRCT and GBCT Conservation Populations	693
			Cultural Resources	1,598
		TL	Big Game Summer Concentration	1,598
70016	51	NSO	Roadless Areas	51
			TEPC Wildlife Species	40
			Water Influence Zones	6
		CSU	Big Game Production Areas	46
			Big Game Summer Concentration	51

Lease No.	Lease Acres	Type of Stipulation ¹	Type of Restriction	Acres ² or Miles of Stipulation/SLT
			Big Game Winter Ranges	50
			Ground Water Resources	21
			High Concern Travel Ways or Use Areas	40
			Highly Erodible Soils	28
			Moderate Scenic Integrity Objective	50
			Paleontological Resources	51
			Sensitive Plant Species	1
			Sensitive Terrestrial/ Avian/ Invertebrate Species	44
			Slopes 30 to 50 Percent	6
			Cultural Resources	51
		TL	Big Game Summer Concentration	51
070361	638	NSO	Severe or High Landscape Stability Hazards	23
			Slope Greater than 50%	28
			TEPC Aquatic Species	288
			Water Influence Zones	27
		CSU	Big Game Summer Concentration	33
			Big Game Winter Ranges	638
			High Concern Travel Ways or Use Areas	517
			Highly Erodible Soils	590
			Moderate Geologic Hazard—GMUGNF	47
			Paleontological Resources	591
			Sensitive Aquatic Species	33
			Sensitive Plant Species	638
			Sensitive Terrestrial Avian Invertebrate Species	483
			Slopes 30 to 50%	231
			Designated Winter Groomed Routes	0.2 mile
		TL	Big Game Summer Concentration	33
			Big Game Winter Range	638
			Big Game Winter Range—GMUGNF	47
75070	1,152	NSO	Authorized Sites and Facilities	40
			Public Water Supply Source Area Protection	30
			Raptor Species Breeding Territories	15
			Roadless Areas	1,113
			Severe or High Landscape Stability Hazards	92
			Slope Greater Than 50 Percent	95
			TEPC Wildlife Species	1
			Water Influence Zones	49

Lease No.	Lease Acres	Type of Stipulation ¹	Type of Restriction	Acres ² or Miles of Stipulation/SLT
		CSU	Authorized Sites and Facilities	163
			Big Game Migration Corridors	116
			Big Game Production Areas	425
			Big Game Summer Concentration	31
			Big Game Winter Ranges	1,150
			High Concern Travel Ways or Use Areas	114
			Highly Erodible Soils	766
			Moderate Scenic Integrity Objective	3
			Moderately High Landscape Stability Hazards	59
			Paleontological Resources	1,151
			Plant Species of Local Concern	24
			Sensitive Aquatic Species	3
			Sensitive Plant Species	1,094
			Sensitive Terrestrial/ Avian/ Invertebrate Species	314
			Slopes 30 to 50 Percent	452
			Watersheds with CRCT and GBCT Conservation Populations	267
			Cultural Resources	1,152
		TL	Big Game Summer Concentration	31
			Big Game Winter Range	194
			Raptor Species Breeding Territories	15

¹ Stipulations

NSO= No Surface Occupancy

CSU= Controlled Surface use

TL= Timing Limitation

SLT= Standard Lease Terms

² The area within each lease to which each stipulation or lease term is applied is in acres unless otherwise noted.

This page is intentionally left blank

Attachment 3

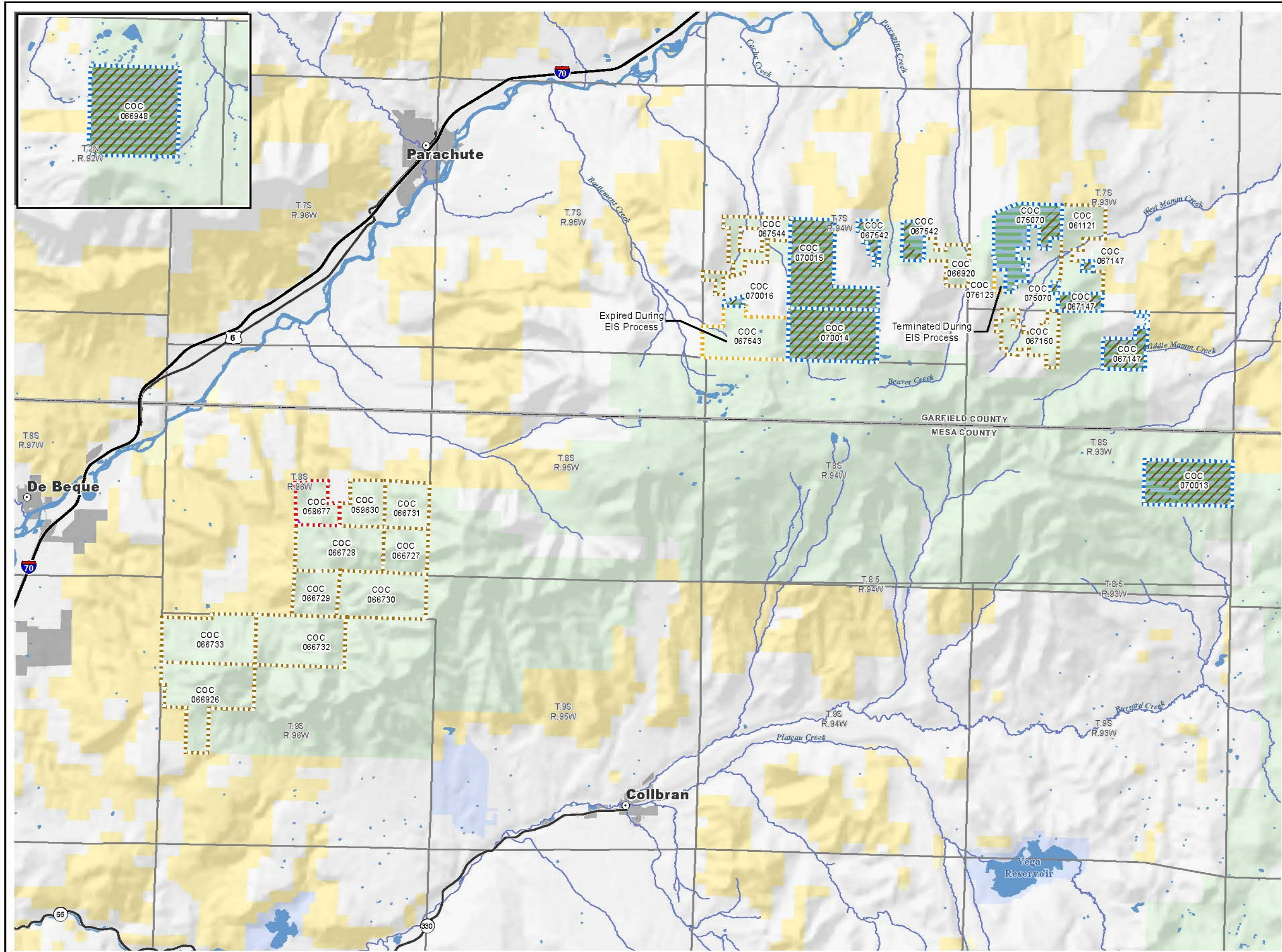
Maps

CONTENTS

BLM's Decision-EAST.....page 3

BLM's Decisions-WEST.....page 4

This page is intentionally left blank



BLM's Decision - Agency Actions

Legend

Lease Actions

- Reaffirmed Leases with 1993 Stipulations Added
- Leases to be Offered Modified Stipulations
- Reaffirmed Leases
- No Decision (Expired or Terminated)
- Leases to be Cancelled

Added Stipulations

- Timing Limitations

Modified Stipulations

- Timing Limitations
- No Surface Occupancy
- Controlled Surface Use

Boundaries

- County Boundary
- Township/Range
- Urban Area

Hydrology

- Stream/River
- Lake/Reservoir

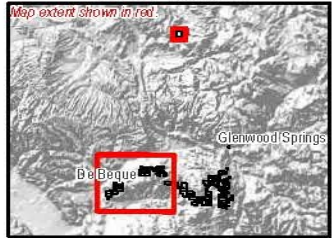
Highways

- Interstate
- Highway

Surface Ownership

- Bureau of Land Management
- Bureau of Reclamation
- Local
- Private
- US Forest Service

WEST DETAIL



Attachment 4

Applicable Stipulations

CONTENTS

USFS Lease Stipulations to be Added to Producing to Committed Leases	pages 3– 6
USFS Lease Stipulations to be Applied to Modified Undeveloped Leases	pages 7 – 56
BLM Lease Stipulation and Notice to be Applied to Modified Undeveloped Leases	pages 57 – 60

Previously Issued Oil and Gas
Leases in the White River National Forest

This page is intentionally left blank

Previously Issued Oil and Gas
Leases in the White River National Forest

USFS LEASE STIPULATIONS TO BE ADDED TO PRODUCING OR COMMITTED LEASES

Previously Issued Oil and Gas
Leases in the White River National Forest

This page is intentionally left blank

TIMING - Snowmobile and Cross-Country Skiing Corridors

Serial No.

TIMING STIPULATION

No surface occupancy use is allowed during the following time period(s); this stipulation does not apply to operation and maintenance of production facilities.

1. Exploration, drilling and development activity will not be allowed during the period from December 1 through April 1.

On lands described below:

Designated snowmobile and cross-country skiing corridors.

For the purpose of:

Protecting the recreational opportunities and community investment in these trail systems. These trails are also difficult to relocate.

Condition under which this stipulation may be waived:

When trail relocation may be necessary to avoid unacceptable disturbance. This would be done in cooperation with the local snowmobile and cross-country skiing clubs.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date

FC C2C4CCUME7E5ECU

TIMING - Big Game Winter Range

Serial No.
Report No.

TIMING STIPULATION

No surface use is allowed during the following time period(s); this stipulation does not apply to operation and maintenance of production facilities.

1. Exploration, drilling and development activity will not be allowed during the period from December 1 through April 30.
2. New oil and gas roads on public lands will be closed yearlong to the public.

On lands described below:

Elk and mule deer winter range – All or portions of Sec. T ; R ; P.M.

For the purpose of:

These areas have been identified in coordination with the Colorado Division of Wildlife. These areas support and sustain a large percentage of the total winter populations. These areas are important for animal survival during winters of harsh weather conditions. Disturbances and habitat losses may place unnecessary stress on the wintering big game herds and cause an increase in mortality.

Condition under which this stipulation would be waived:

Winter conditions which would not concentrate big game on the winter ranges.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Previously Issued Oil and Gas
Leases in the White River National Forest

USFS LEASE STIPULATIONS TO BE APPLIED TO MODIFIED UNDEVELOPED LEASES

Previously Issued Oil and Gas
Leases in the White River National Forest

This page is intentionally left blank

NO SURFACE OCCUPANCY STIPULATION
Threatened, Endangered, Proposed or Candidate Wildlife Species

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

Habitat areas for those wildlife species listed by the federal government as endangered or threatened, and for federally proposed or candidate species. This includes proposed or designated critical habitats. Habitat areas include occupied habitat or habitat necessary for the maintenance or recovery of the species. Please refer to the current species list which is maintained by the Threatened, Endangered, and Sensitive Species Program Leader in the Rocky Mountain Regional Office. This list will be modified when there are updates.

If a species affected by this stipulation is removed from the Federal threatened or endangered species list, this stipulation would continue to apply for 5 years after de-listing to satisfy monitoring requirements. However, other requirements will apply if the species remains classified as Forest Service sensitive, or is otherwise protected.

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protection of occupied and potential habitats necessary for the maintenance or recovery of species listed under the Endangered Species Act (including proposed and candidate species).

Exception: An exception may be granted if an environmental analysis demonstrates that the activity would have negligible impacts and would not cause adverse effects to species or their critical habitats. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect.

Exceptions will only be considered if the Forest Service determines, using ESA Section 7 consultation/conference with USFWS, that the specific activity or requested change would not impair values associated with the maintenance or recovery of the species.

Modification: A modification may be granted if an environmental analysis determines that the species has relocated; the occupied habitat has increased or decreased; or that the nature or conduct of the activity, as proposed or conditioned, would not impair values associated with the maintenance or recovery of the species. A modification may be granted if conditions have changed such that there is no reasonable likelihood of site occupation over a minimum 10-year period. Section 7 consultation/conferencing procedures would be instituted in those instances where a modification is being considered that involves a federally listed or proposed species.

Waiver: A waiver may be granted if an environmental analysis determines that the species is delisted for a period of 5 years or more, becomes extinct or if the site has been unoccupied by the species for a minimum period of 15 years. Section 7 consultation/conferencing procedures would be instituted in those instances where a waiver is being considered that involves a federally listed or proposed species.

Waivers, exceptions, and modifications will be considered on a species by species basis.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

NO SURFACE OCCUPANCY STIPULATION
Threatened, Endangered, Proposed or Candidate Plant Species

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

Habitat areas for those plant species listed by the federal or state government as endangered or threatened, and for federally proposed or candidate species. Habitat areas include occupied habitat, potential habitat, or habitat necessary for the maintenance or recovery of the species. Please refer to the current species list which is maintained by the Threatened, Endangered, and Sensitive Species Program Leader in the Rocky Mountain Regional Office. This list will be modified when there are updates.

If a species affected by this stipulation is removed from the Federal or state lists, this stipulation would continue to apply for 5 years after de-listing to satisfy monitoring requirements. However, other requirements will apply if the species remains classified as sensitive, or is otherwise protected.

T. S., R. W., 6th PM
Sec.:

For the purpose of:

Protection of occupied and potential habitats necessary for the maintenance or recovery of species listed under the Endangered Species Act (including proposed and candidate species) or by the State of Colorado as threatened or endangered.

Exception: An exception may be granted if an environmental analysis demonstrates that the activity would have negligible impacts and would not cause adverse effects to species or their critical habitats. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect.

Exceptions will only be considered if the Forest Service determines, using ESA Section 7 consultation/conference with USFWS or CPW for state listed species, that the specific activity or requested change would not directly or indirectly affect the species or impair values associated with the maintenance or recovery of the species.

During and following the project activities covered by this provision, ongoing monitoring data will be collected by the operator using widely accepted scientific methods and reported to the Forest Service not less often than annually. If unanticipated types or levels of adverse effects are noted during monitoring, the Forest Service will be promptly notified; and corrective measures, as approved by the Forest Service, will be identified and implemented by the proponent.

Modification: A modification may be granted if an environmental analysis determines that the species has relocated; the occupied habitat has increased or decreased; or that the nature or conduct of the activity, as proposed or conditioned, would not impair values associated with the maintenance or recovery of the species. If a species is delisted, the stipulation will continue to apply for 5 years after de-listing to satisfy monitoring requirements. Other requirements will apply if the species remains classified as sensitive, or is otherwise protected.

Waiver: A waiver may be granted if an environmental analysis determines that the species is delisted, becomes extinct or if the site has been unoccupied by the species for a minimum period of 15 years.

Previously Issued Oil and Gas
Leases in the White River National Forest

Waivers, exceptions, and modifications will be considered on a species by species basis.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

NO SURFACE OCCUPANCY STIPULATION
Threatened, Endangered, Proposed or Candidate Raptor Species

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

Habitat areas for those raptor species listed by the federal government as endangered or threatened, and for federally proposed or candidate species. This includes proposed or designated critical habitats. Habitat areas include occupied habitat or habitat necessary for the maintenance or recovery of the species. Please refer to the current species list which is maintained by the Threatened, Endangered, and Sensitive Species Program Leader in the Rocky Mountain Regional Office. This list will be modified when there are updates.

If a species affected by this stipulation is removed from the Federal threatened or endangered species list, this stipulation would continue to apply for 5 years after de-listing to satisfy monitoring requirements. However, other requirements will apply if the species remains classified as Forest Service sensitive, or is otherwise protected.

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protection of occupied and potential habitats necessary for the maintenance or recovery of species listed under the Endangered Species Act (including proposed and candidate species).

Exception: An exception may be granted if an environmental analysis demonstrates that the activity would have negligible impacts and would not cause adverse effects to species or their critical habitats. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect. Exceptions will only be considered if the Forest Service determines, using ESA Section 7 consultation/conference with USFWS, that the specific activity or requested change would not impair values associated with the maintenance or recovery of the species.

Modification: A modification may be granted if an environmental analysis determines, after a minimum 10-year period, that the species has relocated; the occupied habitat has increased or decreased; or that the nature or conduct of the activity, as proposed or conditioned, would not impair values associated with the maintenance or recovery of the species. Section 7 consultation/conferencing procedures would be instituted in those instances where a modification is being considered that involves a federally listed or proposed species. .

Waiver: A waiver may be granted if an environmental analysis determines that the species is delisted for a period of 5 years or more, becomes extinct or if the site has been unoccupied by the species for a minimum period of 15 years. Section 7 consultation/conferencing procedures would be instituted in those instances where a waiver is being considered that involves a federally listed or proposed species.

Waivers, exceptions, and modifications will be considered on a species by species basis.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

NO SURFACE OCCUPANCY STIPULATION Raptor Species Breeding Territories

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

Breeding territories around raptor nest areas that are not protected by stipulations for federally listed endangered, threatened, proposed, or candidate species. Breeding territories include occupied habitats used for nest territory establishment, courtship, nesting (active or inactive nests), and fledgling use. Locations of raptor breeding territories will be updated annually as data and information change. In the event that a new raptor breeding territory is identified, an appropriate NSO buffer zone will be applied.

Species and applicable buffer zones (shown below as the radius distance from a nest) currently include:

American Kestrel, 1/8 mile	Northern Goshawk, 1/2 mile
American Peregrine Falcon, 1 mile	Northern Harrier, 1/4 mile
Bald Eagle, 1/4 mile	Northern Pygmy Owl, 1/4 mile
Boreal Owl, 1/8 mile	Northern Saw-Whet Owl, 1/8 mile
Cooper's Hawk, 1/4 mile	Osprey, 1/4 mile
Ferruginous Hawk, 1/2 mile	Prairie Falcon, 1/2 mile
Flammulated Owl, 1/4 mile	Red-tailed Hawk, 1/3 mile
Golden Eagle, 1/4 mile	Sharp-shinned Hawk, 1/4 mile
Great Horned Owl, 1/8 mile	Swainson's Hawk, 1/4 mile
Long-eared Owl, 1/8 mile	Western Screech Owl, 1/8 mile

T. S., R. W., 6th PM

Sec. :

For the purpose of:

Protection of raptor breeding sites. Includes maintaining the functionality of the nest site and the surrounding physical and vegetation character of the breeding territory habitat for current and subsequent reproduction.

Exceptions: An exception may be granted if an environmental analysis determines that the nature or conduct of the action, as proposed or conditioned, would not impair the function or utility of a breeding territory for current or subsequent reproductive activities or occupancy. The exception must be consistent with policies derived from federal administration of the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect.

Exceptions will only be considered if the Forest Service determines, following consultation with CPW and USFWS, that (a) the specific activity or requested change would not impair behaviors, habitat use and quality, and reproductive success of raptor species present within the specific NSO area; and (b) no practicable alternative is available.

Modifications: A site specific modification may be granted if an environmental analysis determines that a portion of the area is not essential to breeding territory functions or utility; or that the nature or conduct of the activity, as proposed or conditioned, would not impair the function or utility of the breeding territory for current or subsequent reproductive activities or occupancy. A modification may be granted if an environmental analysis determines that the breeding territory has remained unoccupied for a minimum of 5 years; or that the site conditions of the breeding territory have changed such that there is no reasonable likelihood of breeding territory occupation for a subsequent minimum period of 10 years. A modification must

be consistent with policies derived from federal administration of the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

Buffer distances may be modified if improved biological information based on the best available science indicates that there are more appropriate buffer distances for raptors, as recognized by CPW, USFWS, and the Forest Service.

Waiver: A waiver may be granted if an environmental analysis determines that breeding territory conditions have changed such that there is no reasonable likelihood of breeding territory occupation within the lease area in the long term.

Waivers, exceptions, and modifications will be considered on a species by species basis.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

NO SURFACE OCCUPANCY STIPULATION
Threatened, Endangered, Proposed or Candidate Aquatic Species

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

Habitat areas for those aquatic species listed by the federal or state government as endangered or threatened, and for federally proposed or candidate species. Habitat areas include occupied habitat or habitat necessary for the maintenance or recovery of the species. Please refer to the current species list which is maintained by the Threatened, Endangered, and Sensitive Species Program Leader in the Rocky Mountain Regional Office. This list will be modified when there are updates.

If a species affected by this stipulation is removed from the Federal or state lists, this stipulation would continue to apply for 5 years after de-listing to satisfy monitoring requirements. However, other requirements will apply if the species remains classified as sensitive, or is otherwise protected.

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protection of occupied and potential habitats necessary for the maintenance or recovery of species listed under the Endangered Species Act (including proposed and candidate species) or by the State of Colorado as threatened or endangered.

Exception: An exception may be granted, in consultation with the USFWS, if environmental analysis demonstrates that the proposed action would not adversely influence important fishery functions or compromise the integrity of constituent elements of critical habitat.

Modification: A modification may be granted, in consultation with the USFWS, if an environmental analysis demonstrates that the proposed action can be sited, conducted, or conditioned to remain compatible with habitat protection and species recovery objectives. If a modification is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations, that a modification may be granted, the activity would be subject to additional Conditions of Approval (COA's) and reclamation standards to ensure resource values are protected. Granting a modification is a discretionary action which the operator should not routinely expect.

Waiver: A waiver may be granted, in consultation with the USFWS, if an environmental analysis demonstrates that the White River's designated critical habitat is incapable of serving the long term requirements of Colorado pikeminnow and that this aquatic system no longer warrants consideration as a recovery component for the four species of endangered Colorado River fishes.

Waivers, exceptions, and modifications will be considered on a species by species basis.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

**NO SURFACE OCCUPANCY STIPULATION
Native Cutthroat Trout Habitat**

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

Within 350 feet of occupied cutthroat trout habitat

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protecting current populations of Colorado River Cutthroat Trout and Greenback Cutthroat Trout.

Exceptions: An exception may be granted if an environmental analysis demonstrates that the surface-disturbing activity would not cause adverse impact, have negligible impacts, or improve the protected resource value or use as defined by forest plan objectives, standards, or conditions in the stipulation. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In situations where a surface-disturbing activity/lease stipulation is excepted, the activity could be subject to additional conditions of approval, reclamation measure, or BMPs. Measures applied would be based on the nature, extent, and values potentially affected by the surface-disturbing activity. Excepted surface-disturbing activities/lease stipulations are given on a one-time case-by-case basis and will not necessarily constitute subsequent approvals.

Modifications: A modification may be granted if an environmental analysis demonstrates that a new road or pipeline added within the 350 foot buffer of an occupied native cutthroat trout stream has less impact to the cutthroat trout population than an alternative route that avoids the buffer entirely. If a modification is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations, that a modification may be granted, the activity would be subject to additional Conditions of Approval (COA's) and reclamation standards to ensure resource values are protected. Granting a modification is a discretionary action which the operator should not routinely expect.

Waiver: A waiver may be granted if an environmental analysis determines that the areas mapped as possessing the attributes are verified to not possess those attributes.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

NO SURFACE OCCUPANCY STIPULATION
Water Influence Zones (Streams, Lakes, Floodplains, Wetlands
or Naturally Occurring Ponds)

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

Areas within the water influence zone (WIZ) of perennial and intermittent streams, lakes, wetlands, and naturally occurring ponds. This zone is a minimum horizontal width of 100 feet from each side of the water-dependent feature, but may be wider in areas with well-developed floodplains. Placement of road and pipeline crossings in the WIZ of intermittent drainages is not subject to this stipulation.

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Maintaining long-term stream health, floodplain health and riparian ecosystem condition; conserving soil moisture, preventing damage by increased runoff, protecting surface and subsurface water quality; and preventing the transport of pollutants into surface water.

Exceptions: An exception may be granted if an environmental analysis finds the nature of the proposed action could be conditioned so as not to negatively impact the water resources identified. Consideration must include the degree of slope, soils, importance of the amount and type of wildlife and fish use, water quality, riparian vegetation, and other related resource values. If wetlands are present, no exceptions would be granted unless compliance can be demonstrated with Executive Order 11990.

Modifications: A modification may be granted if an environmental analysis determines that project design or mitigation measures can be used to prevent impacts to water influence zones. Consideration must include the variability in terrain, degree of slope, soils, importance of the amount and type of wildlife and fish use, water quality, riparian vegetation, and other related resource values. If wetlands are present, no modifications would be granted unless compliance can be demonstrated with Executive Order 11990.

Waiver: A waiver may be granted if an environmental analysis determines that the areas mapped as water influence zones in the entire leasehold do not possess those attributes.

Any changes to this stipulation will be made in accordance with the land use plan and/ the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

**NO SURFACE OCCUPANCY STIPULATION
Fen Wetlands**

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

All areas within 330 feet of fen wetlands within the lease area.

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Maintaining species richness, plant diversity, soil nutrient levels, water budgets, and flow patterns to fen wetlands in order to sustain their ecological function.

Exceptions: None.

Modifications: A modification may be granted if an environmental analysis determines that the wetland is not a fen wetland. In such cases the No Surface Occupancy stipulation for Water Influence Zones (floodplains, streams, wetlands, lakes, or naturally occurring ponds) would be applied.

Waiver: A waiver may be granted if an environmental analysis determines that the areas mapped as fen wetlands in the entire leasehold do not possess wetland attributes.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

**NO SURFACE OCCUPANCY STIPULATION
Public Water Supply Source Area**

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

Groundwater or surface water sources serving as public water supplies, as defined by the State of Colorado's Source Water Assessment and Protection (CSWAP) program. For surface water sources: within 2,300 feet (CSWAP sensitivity Zones 1 and 2) either side of a designated surface water source, extending upstream five miles from the intake location. For Groundwater sources: within a 1.5 mile radius (CSWAP sensitivity Zones 1 and 2) of a designated well or similar feature serving as a public water supply.

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protecting surface and subsurface public water supplies.

Exceptions: An exception may be granted if an environmental analysis determines that an alternative design, monitoring, and emergency response plan is equally or more protective than the stipulation requirements.

Modifications: None.

Waiver: A waiver may be granted if an environmental analysis determines that the areas mapped as public water supply source areas in the entire leasehold do not possess those attributes.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

**NO SURFACE OCCUPANCY STIPULATION
Slopes > 50 percent**

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Avoiding areas with steep slopes to prevent further mass movements and slope failure; maintaining or improving water quality to meet Federal and State standards; preventing significant or permanent impairment to soil productivity; and preventing occupancy in areas where reclamation would be ineffective.

Exceptions: An exception may be granted if an environmental analysis demonstrates that the nature of the proposed action could be conditioned so as not to negatively impact the stability of or productivity of the steep slopes identified.

Modifications: A site specific modification may be granted if an environmental analysis determines that a portion of the proposed surface disturbance meets the following conditions: 1) more than of the proposed surface disturbance and infrastructure would be on surface that is not on natural slopes greater than 50 percent, and 2) the proposed action utilizes construction, reclamation, and design features that would stabilize the site during occupation and restore the original contours after occupation.

Waiver: A waiver may be granted if better elevation data indicates that there are no natural slopes greater than 50 percent anywhere within the leasehold.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

**NO SURFACE OCCUPANCY STIPULATION
Severe or High Landscape Stability Hazards**

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Avoiding areas with severe or high site stability risk ratings to prevent further mass movements and slope failure; maintaining or improving water quality to meet Federal and State standards; preventing significant or permanent impairment to soil productivity; and preventing occupancy in areas where reclamation would be ineffective.

Exceptions: An exception may be granted if an environmental analysis demonstrates that adverse effects can be minimized and activities safely conducted. An exception may be granted if a site specific survey of the proposed action demonstrates that severe or high landscape stability hazards do not exist on the specific site. An exception may be granted if an environmental analysis finds the nature of the proposed action could be conditioned so as not to impair the severe or high landscape stability hazard areas. An exception may also be granted if a more detailed geologic and soil survey, conducted by a qualified geologist, geotechnical expert, and/or soil scientist finds the properties associated with the proposed action are not susceptible to mass movement.

Modifications: Site specific modifications may be granted if an environmental analysis determines that a portion of the soil units meet the following conditions: 1) inclusions within the soil unit where slopes are less than 50 percent; 2) a more detailed survey identifies and delineates wet areas and sloping rock formations, and the proposed action is designed to avoid those areas; 3) the proposed action utilizes land treatments and soil stabilization practices that will demonstrate a high probability of reducing soil loss and preventing degradation of water quality, and 4) the proposed action would not cause mass movement as demonstrated through engineering and design criteria.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

NO SURFACE OCCUPANCY STIPULATION
Authorized Sites and Facilities

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

Within ¼ mile around administrative sites, developed recreation facilities, permitted outfitter guide base camps, and cow camps including associated horse pastures.

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protecting the investment of facilities with the site, preserving historic significance of the site, protecting the recreation experience and safety of forest users, protecting the use authorized by permit, and protecting the natural environment that initially made the areas desirable for use and development.

Exceptions: None.

Modifications: A modification may be granted if an environmental analysis determines a portion of the administrative site, developed recreation facility, permitted outfitter-guide base camp, or cow camp, including associated horse pasture, in the leasehold are moved or eliminated.

Waiver: A waiver may be granted if an environmental analysis determines that all the administrative site(s), developed recreation facilities, permitted outfitter guide base camps, or cow camps, including associated horse pastures, in the leasehold are moved or eliminated.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

**NO SURFACE OCCUPANCY STIPULATION
Summer Non-Motorized Recreation**

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

Summer non-motorized recreation areas where the desired condition is to provide for a quiet, recreation experience in a natural or natural appearing setting.

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Keeping surface disturbance activities outside of designated non-motorized recreation areas to protect and maintain the semi-primitive and non-motorized recreation character which include such elements as natural integrity, natural appearance, and opportunity for quiet and solitude recreation experiences.

Exceptions: None.

Modifications: A modification may be granted if thru a land use plan amendment it is determined that portions of the lease are no longer managed for summer non-motorized recreation areas opportunities.

Waiver: A waiver may be granted if an environmental analysis determines that none of the area within the leasehold is being managed for summer non-motorized recreation values.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

**NO SURFACE OCCUPANCY STIPULATION
Roadless Areas**

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

For all lands designated as a Roadless Area.

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Preserving the natural features that contribute to roadless characteristics.

Exceptions: None.

Modifications: A modification may be granted if an environmental analysis determines that the boundary of the designated roadless area has been modified and the portion of the leasehold is no longer in a designated roadless area.

Waiver: A waiver may be granted if an environmental analysis determines that the entire leasehold no longer contains portions of a designated roadless area.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

Serial No. _____

**NO SURFACE OCCUPANCY STIPULATION
SLOPES > 60% (GMUG NF)**

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

All or portions of Sec.____, T.____, R.____, PM____, as shown on the attached map which becomes a part hereof. All areas within the leasehold with 60% slopes or greater fall under jurisdiction of this stipulation.

For the purpose of:

Protection of areas with slopes greater than 60% to prevent impacts to soil resources through erosion, mass failure, loss of productivity, etc.

Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date

Serial No.____

**NO SURFACE OCCUPANCY STIPULATION
WETLANDS / FLOODPLAINS / RIPARIAN AREAS (GMUG NF)**

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

All or portions of Sec.____, T.____, R.____, PM____, as shown on the attached map which becomes a part hereof.

Wetlands, Floodplains and Riparian Areas of any defined drainage or location containing these specific ecosystem types come under jurisdiction of this stipulation. Drill pads, staging areas and storage sites will not be allowed in these areas. When road locations must occur in these areas, streams will be crossed at right angles and access across other areas will be held to a minimum. Streams will not be paralleled by roads through these areas. Location of these areas which is more specific than can be identified on USGS topographic maps will come at the APD stage based on on-the-ground observations.

For the purpose of:

The management of wetlands and floodplains are subject to Executive Orders 11990 and 11988, respectively. The purpose of the EO's are to avoid to the extent possible the long and short term adverse impacts associated with the destruction or modification of wetlands and floodplains and to avoid direct or indirect support of new construction in wetlands wherever there is a practical alternative.

Also, it is recognized that there is a direct relationship between impacts on such areas and effects on water quality and aquatic ecosystems. There is a high risk of irreversible and irretrievable impacts on the latter with operation and developments in wetlands, floodplains and riparian areas.

Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered if it can be shown through environmental analysis and the application of mitigation measures that the impacts to wetland, floodplain and riparian resources will be minimized and that no other alternative route for a road or pipeline is feasible because of environmental effects.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date

Serial No.____

**NO SURFACE OCCUPANCY STIPULATION
BATTLEMENT MESA ROADLESS AREAS (GMUG NF)**

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

All or portions of Sec.____, T.____, R.____, PM____, as shown on the attached map which becomes a part hereof. All of the leasehold which falls within the Battlement Mesa Roadless Area is under jurisdiction of this stipulation.

For the purpose of:

Protecting the roadless character of the area which includes its apparent naturalness, degree of remoteness, solitude, and special features, and to protect other resources of special concern (steep slopes, high geologic hazards, high erosion hazards, revegetation problems, important wildlife habitat, visual resources).

Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date

Serial No.____

**NO SURFACE OCCUPANCY STIPULATION
HIGH GEOLOGIC HAZARD (GMUG NF)**

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

All or portions of Sec.____, T.____, R.____, PM____, as shown on the attached map which becomes a part hereof. Areas of high geologic hazard have been mapped from aerial photographs and are characterized by active mudflows, active earthflows, active landslides and areas prone to avalanche. All areas within the lease with high geologic hazard are under jurisdiction of this stipulation.

For the purpose of:

Avoidance of areas with high geologic hazard to prevent mass slope failure.

Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date

CONTROLLED SURFACE USE STIPULATION

Paleontological Resources

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

For areas with Probable Fossil Yield Classifications (PFYC) values of 3, 4, or 5 (or comparable values of another agency-approved system for characterizing paleontological resource potential), the Forest Service may require surveys (inventories) for paleontological resources, special design, construction, operation, mitigation (protection and or removal of paleontological resources) implementation, reclamation, or monitoring measures (during construction or earthmoving). The survey must be conducted by a qualified paleontologist whose qualifications are reviewed/approved by the authorized officer and the report must be reviewed and approved by the authorized officer.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

To protect and preserve paleontological resources and immediate environment (or condition) of the site, including inherent scientific, natural, historic, interpretive, educational, and recreational values for the area potentially impacted.

Exceptions: An exception may be granted if an environmental analysis demonstrates that the surface-disturbing activity would not cause any adverse impacts or would have negligible impacts to the site, e.g., where topography, changes in elevation, etc., would physically isolate development from impacting the site.

Modifications: None.

Waiver: A waiver may be granted if thru a land use plan amendment it is determined that the areas mapped as possessing the attributes are verified to not possess those attributes.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

CONTROLLED SURFACE USE STIPULATION Big Game Migration Corridors

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

For those habitats identified as known migration corridors for big game including elk, deer, and moose, special design, construction, operation, mitigation, implementation, reclamation, and monitoring measures, including relocation of operations by more than 200 meters may be required.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protection of key migrating big game habitats in order to prevent abandonment of critical habitats that provide connectivity between seasonal use areas.

Exceptions: A site specific exception may be granted, in consultation with CPW, if an environmental analysis determines that (a) the specific activity or requested change would not impair the quality, values, and ecological function of big game migration corridors, nor impair the behaviors, habitat use, or survival of elk, deer, or moose that use migration corridors within the specific area; and (b) no practicable alternative is available. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect.

Modifications: A modification may be granted if an environmental analysis determines that the migration corridor locations change for these species as documented by CPW.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

CONTROLLED SURFACE USE STIPULATION Big Game Production Areas

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

For those habitats identified as known production areas for big game species including elk, deer, and moose, special design, construction, operation, mitigation, implementation, reclamation, and monitoring measures, including relocation of operations by more than 200 meters may be required.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protection of key big game production/parturition habitats in order to prevent abandonment of critical habitats and to maintain big game reproductive success, juvenile recruitment, and survival of adult and young.

Exceptions: A site specific exception may be granted, in consultation with CPW, if an environmental analysis determines that (a) the specific activity or requested change would not impair the quality, values, and ecological function of big game production habitats, nor impair the health, behaviors, habitat use, and reproductive success of elk, deer, or moose that use production habitats within the specific area; and (b) no practicable alternative is available. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect.

Modifications: A modification may be granted if an environmental analysis determines that the production habitat boundaries change for these species as documented by CPW.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

CONTROLLED SURFACE USE STIPULATION Big Game Summer Concentration Areas

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

For those habitats identified as known summer concentration areas for big game species including elk, deer, moose, and black bear, special design, construction, operation, mitigation, implementation, reclamation, and monitoring measures, including relocation of operations by more than 200 meters may be required.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protection of priority big game habitats used for rearing young and concentrated feeding sites, in order to prevent abandonment of critical habitats, and to maintain reproductive success, recruitment, and survival.

Exceptions: A site specific exception may be granted, in consultation with CPW, if an environmental analysis determines that the proposed action can be conditioned so as not to currently or subsequently interfere with or impair habitat function or compromise animal condition, impair health, behaviors, habitat use, or reproduction success/juvenile recruitment of big game that use summer concentration sites within the specific areas; and that no practicable alternative is available. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect.

Modifications: A modification may be granted if an environmental analysis determines that summer concentration habitat boundaries change for these species as documented by CPW.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

**CONTROLLED SURFACE USE STIPULATION
Big Game Winter Ranges**

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

For those habitats identified as winter ranges, winter concentration areas, and severe winter ranges for big game species including elk, deer, and moose, special design, construction, operation, mitigation, implementation, reclamation, and monitoring measures, including relocation of operations by more than 200 meters may be required.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protection of big game winter habitats in order to maintain winter survival of elk, deer, and moose.

Exceptions: A site specific exception may be granted, in consultation with CPW, if an environmental analysis determines that (a) the specific activity or requested change would not impair the quality, values, and ecological function of winter big game habitats, nor impair the health, behaviors, habitat use, and survivorship of elk, deer, or moose that winter within the specific CSU area; and (b) no practicable alternative is available. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect.

Modifications: A modification may be granted if an environmental analysis determines that the associated habitat boundaries change for these species as documented by CPW.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

CONTROLLED SURFACE USE STIPULATION
Watersheds with Colorado River & Greenback Cutthroat Trout Conservation Populations

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

Net density of roads cannot be increased in 6th level watersheds containing a conservation population of Colorado River and greenback cutthroat trout. In cases where new roads are necessary for operations, an equivalent length of existing roads must be removed. Temporary roads (intended for less than one year) are excluded from this stipulation.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protection of conservation populations of Colorado River and greenback cutthroat trout.

Exceptions: An exception may be granted if an environmental analysis demonstrates that the surface-disturbing activity would not cause adverse impact, have negligible impacts, or improve the protected resource value or use as defined by forest plan objectives, standards, or conditions in the stipulation. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In situations where a surface-disturbing activity/lease stipulation is excepted, the activity could be subject to additional conditions of approval, reclamation measure, or BMPs. Measures applied would be based on the nature, extent, and values potentially affected by the surface-disturbing activity. Excepted surface-disturbing activities/lease stipulations are given on a one-time case-by-case basis and will not necessarily constitute subsequent approvals.

Modifications: A modification may be granted if an environmental analysis demonstrates that a new road or pipeline added within the 350 foot buffer of an occupied native cutthroat trout stream has less impact to the cutthroat trout population than an alternative route that avoids the buffer entirely. If a modification is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations, that a modification may be granted, the activity would be subject to additional Conditions of Approval (COA's) and reclamation standards to ensure resource values are protected. Granting a modification is a discretionary action which the operator should not routinely expect.

Waiver: A waiver may be granted if an environmental analysis determines that the areas mapped as possessing the attributes are verified to not possess those attributes.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

CONTROLLED SURFACE USE STIPULATION

Groundwater Resources

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

The FS may require special analysis and mitigation plans for proposed activities where specific groundwater resources exist. Special design, construction, operation, mitigation, and/or monitoring may be required.

Mitigation may include use of contained drilling systems, specific design of fuel storage, spill plans and specific design of water handling facilities. Disposal of wastewater into the subsurface will not be allowed.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protecting, managing, and improving Groundwater and ground-water dependent ecosystems while implementing land management activities.

Exceptions: An exception may be granted if an environmental analysis demonstrates that the oil and gas activity can be mitigated to the extent that only negligible impacts to the resource or resource use that the stipulation was designated to protect or would improve the protected resource or resource use as defined by forest plan objectives, standards, or conditions.

Modifications: A modification may be granted if an environmental analysis demonstrates that the oil and gas activity can be mitigated to the extent that only negligible impacts to the resource or resource use that the stipulation was designated to protect or would improve the protected resource or resource use as defined by forest plan objectives, standards, or conditions.

Waiver: A waiver may be granted if thru a land use plan amendment it is determined that the areas mapped as possessing the attributes are verified to not possess those attributes.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

CONTROLLED SURFACE USE STIPULATION

Sensitive Plant Species

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

For those areas where plant species habitats listed as Sensitive by the Forest Service Rocky Mountain Region occur, special design, construction, operation, mitigation, implementation, reclamation, and monitoring measures, may be required. If habitat is present, a species specific inventory and/or survey may be required at the time operations are proposed to determine presence or absence of species.

Please refer to the current Sensitive Species list which is maintained by the Threatened, Endangered, and Sensitive Species Program Leader in the Rocky Mountain Regional Office. This list will be modified when there are updates.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Avoiding disturbance to Sensitive Plant Species that would result in a trend toward federal listing or loss of viability.

Exceptions: An exception may be granted if an environmental analysis determines that the activity would not impair values associated with the maintenance or viability of the species.

Modifications: A modification may be granted if an environmental analysis determines that the species has relocated; the occupied habitat has increased or decreased; or that the nature or conduct of the activity, as proposed or conditioned, would not impair values associated with the maintenance or viability of the species and would minimize or eliminate threats affecting the status of the species.

Waiver: A waiver may be granted if an environmental analysis determines that the species is no longer designated as FS Sensitive or if the site has been unoccupied by the species for a minimum period of 15 years.

Waivers, exceptions, and modifications will be considered on a species by species basis.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

CONTROLLED SURFACE USE STIPULATION Moderately-High Landscape Stability Hazards

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

The FS may require special analysis and mitigation plans for activities proposed in Areas with Potential for Geologic Instability and have a moderately-high site stability risk rating. Site-specific slope stability exams may be needed on areas identified as potentially unstable. Special design, construction, operation, mitigation, reclamation measures, and monitoring may be required.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Preventing mass movements such as (but not limited to) landslides; maintaining or improving water quality to meet Federal and State standards, minimizing effects to visual and soil resources. To ensure stability and safety of roads, drill sites and ancillary facilities during oil and gas operations, and to ensure stability of lands adjacent to these facilities and ensure reclamation success.

Exceptions: An exception may be granted if an environmental analysis determines the nature of the proposed action could be conditioned so as not to impair the moderately-high landscape stability hazard areas. An exception may be granted if a site specific survey demonstrates that moderately-high landscape stability hazards do not exist on the specific site. An exception may be granted if a more detailed geologic and soil survey, conducted by a qualified geologist, geotechnical expert, and/or soil scientist finds the properties associated with the proposed action are not susceptible to mass movement.

Modifications: Site specific modifications may be granted if an environmental analysis determines that a portion of the soil units meet the following conditions: 1) inclusions within the soil unit where slopes are less than 30 percent; 2) a more detailed survey identifies and delineates wet areas and sloping rock formations, and the proposed action is designed to avoid those areas; 3) the proposed action utilizes land treatments and soil stabilization practices that will demonstrate a high probability of reducing soil loss and preventing degradation of water quality, and 4) the proposed action would not cause mass movement as demonstrated through engineering and design criteria.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

CONTROLLED SURFACE USE STIPULATION Highly Erodible Soils Area

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

The FS may require special analysis and mitigation plans for proposed activities where highly erodible soils exist. Highly erodible soils will be identified by a qualified Soil Scientist and be determined according to soil properties including texture, structure, organic matter content, and permeability. K-factor values can be used as proxy for erodibility before site visits are made. Special design, construction, operation, mitigation, reclamation measures, and monitoring may be required.

Mitigation may include use of erosion control blankets, geotextiles, or other soil support techniques, use of native materials, specific design of water management, and stabilizing reclamation techniques. Maintenance of and amendment with soil organic matter is a preferred method of improving soil resilience against soil erosion.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protecting the soil resource, preventing significant or permanent impairment to soil productivity. To ensure stability and safety of roads, drill sites and ancillary facilities, and ensure reclamation success.

Exceptions: An exception may be granted if an environmental analysis demonstrates that adverse effects can be minimized and activities safely conducted.

Modifications: A modification may be granted if an environmental analysis of the proposed action demonstrates that highly erodible soils do not exist on the specific site.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

CONTROLLED SURFACE USE STIPULATION
Authorized Sites and Facilities

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

Within ½ mile of administrative sites, developed recreation facilities, permitted outfitter-guide base camps, and cow camps including associated horse pastures, the Forest Service may require special design, construction, operation, mitigation, reclamation measures, and monitoring.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protecting the investment of facilities with the site, preserving historic significance of the site, protecting the recreation experience and safety of forest users, protecting the use authorized by permit, and protecting the natural environment that initially made the areas desirable for use and development.

Exceptions: An exception may be granted if an environmental analysis demonstrates that the surface disturbing activity would not cause adverse impacts or would have negligible impacts to the authorized site or facility, associated recreation experiences, visitor safety, and the surrounding natural environment that the stipulation was designed to protect.

Modifications: A modification may be granted if an environmental analysis determines that a portion of the administrative site, developed recreation facility, permitted outfitter-guide base camp, or cow camp, including associated horse pasture, in the leasehold are moved or eliminated.

Waiver: A waiver may be granted if an environmental analysis determines that the authorized site or facility has been decommissioned.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

CONTROLLED SURFACE USE STIPULATION

Designated Winter Groomed Routes

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

Access will be limited to over-the-snow vehicles from midnight the second Monday in November through the Wednesday before Memorial Day on designated winter groomed routes under special use permit. No plowing will be allowed on these designated routes during this time period unless specifically authorized.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Providing high quality winter recreation opportunities and minimize user conflicts. Protecting the integrity and partners investment of winter groomed routes.

Exceptions: An exception may be granted if an environmental analysis demonstrates that the surface disturbing activity would not cause adverse impacts or would have negligible impacts to designated winter groomed routes under special use permit, all associated recreation sites, high quality winter recreation experiences and opportunities, and partners investment that the stipulation was designed to protect.

Modifications: A modification may be granted if an environmental analysis determines that a portion of a winter groomed route within the leasehold has or can be moved or eliminated while meeting the purpose above.

Waiver: A waiver may be granted if an environmental analysis determines that the designated winter groomed routes under special use permit have been eliminated from the forests "winter" Motor Vehicle Use Maps, and are no longer groomed under special use permit. .

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

CONTROLLED SURFACE USE STIPULATION
Moderate Scenic Integrity Objective Areas

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

To meet Scenic Integrity Objectives (SIO's) the FS may require special analysis and mitigation plans for activities proposed along areas with Moderate Scenic Integrity Objectives.

At the time operations are proposed, the lessee may be required to submit visual simulations and visual resource and interpretive assessments along with plans for Forest Service approval demonstrating that all structures will be visually subordinate to the surrounding landscape and meet the SIO. A computer generated perspective may be required as part of the visual impact assessment.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protecting the scenic resources and the character of the landscape. Noticeable deviations must remain visually subordinate to the landscape character being viewed and meet the Scenic Integrity Objectives (SIO).

Exceptions: An exception may be granted if an environmental analysis demonstrates, through a site specific review, that the effects of the proposed activity will not cause the area to fall below a moderate scenic integrity objective. .

Modifications: None.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

CONTROLLED SURFACE USE STIPULATION
Slopes 30 to 50 percent

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

The FS may require special analysis and mitigation plans for activities proposed in areas with slopes ranging from 30 to 50 percent. This slope range shall be field-verified with an inclinometer, survey data, or other approved slope determination methods. Site-specific slope stability exams may be needed on areas identified as potentially unstable. Special design, construction, operation, mitigation, reclamation measures, and monitoring may be required.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Preventing mass movements such as (but not limited to) landslides; maintaining or improving water quality to meet Federal and State standards, minimizing effects to soil and visual resources. To ensure stability and safety of roads, drill sites and ancillary facilities during oil and gas operations, and to ensure stability of lands adjacent to these facilities and ensure reclamation success.

Exceptions: An exception may be granted if an environmental analysis of the proposed action identifies that the scale of the operation would not result in any long term decrease in site productivity or increased erosion. An exception may also be granted if a more detailed survey determines that the proposed action will not disturb soils on slopes greater than or equal to 30 percent and less than or equal to 50 percent. An exception may be granted if a site specific survey determines the slope of the ground subjected to disturbance is less than 30 percent.

Modifications: None.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820).

CONTROLLED SURFACE USE STIPULATION
High Concern Travelways or Use Areas

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

To meet Scenic Integrity Objectives (SIO's) in Foreground Views (up to ½ mile), the Forest Service may require special analysis and mitigation plans for activities proposed near High Concern Level 1 travel routes (travelways and use areas including, but not limited to, highways, roads, railways, trails, waterways, vista points, trailheads, campgrounds, and other recreation sites) as defined in the WRNF Land and Resource Management Plan.

At the time operations are proposed, the lessee may be required to submit visual simulations and visual resource and interpretive assessments along with plans for FS approval demonstrating that all structures will be visually subordinate to the surrounding landscape and meet the SIO. A computer generated perspective may be required as part of the visual impact assessment.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protecting the existing landscape character and maintaining the existing Scenic Integrity Objectives (SIO) along the High Concern Level 1 travel routes in Foreground Views (up to ½ mile).

Exceptions: An exception may be granted if an environmental analysis demonstrates that impacts from the proposed action can be mitigated or would be negligible to the recreation, scenic, and historic values and not visible within ½ mile of Foreground Views.

Modifications: None.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

CONTROLLED SURFACE USE STIPULATION

Sensitive Aquatic Species

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

For those areas where aquatic species habitats listed as Sensitive by the Forest Service Rocky Mountain Region occur, special design, construction, operation, mitigation, implementation, reclamation, and monitoring measures, may be required. If habitat is present, a specie specific inventory and/or survey may be required at the time operations are proposed to determine presence or absence of species.

Please refer to the current Sensitive Species list which is maintained by the Threatened, Endangered, and Sensitive Species Program Leader in the Rocky Mountain Regional Office. This list will be modified when there are updates.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Avoiding disturbance to Sensitive Aquatic (amphibians or fish) Species that would result in a trend toward federal listing or loss of viability.

Exceptions: An exception may be granted if an environmental analysis demonstrates that the surface-disturbing activity; would not cause adverse impact, have negligible impacts, or improve the protected resource value or use as defined by forest plan objectives, standards, or conditions in the stipulation. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In situations where a surface-disturbing activity/lease stipulation is excepted, the activity could be subject to additional conditions of approval, reclamation measure, or BMPs. Measures applied would be based on the nature, extent, and values potentially affected by the surface-disturbing activity. Excepted surface-disturbing activities/lease stipulations are given on a one-time case-by-case basis and will not necessarily constitute subsequent approvals.

Modifications: A modification may be granted, in consultation with the USFWS, if an environmental analysis demonstrates that the proposed action can be sited, conducted, or conditioned to remain compatible with habitat protection and species recovery objectives. If a modification is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations, that a modification may be granted, the activity would be subject to additional Conditions of Approval (COA's) and reclamation standards to ensure resource values are protected. Granting a modification is a discretionary action which the operator should not routinely expect.

Waiver: A waiver may be granted if an environmental analysis determines that the areas mapped as possessing the attributes are verified to not possess those attributes.

Waivers, exceptions, and modifications will be considered on a specie by specie basis.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

CONTROLLED SURFACE USE STIPULATION

Plant Species of Local Concern

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

For those Plant Species of Local Concern, including significant natural plant communities, special design, construction and implementation measures, may be required. If habitat is present, a species specific inventory and/or survey may be required at the time operations are proposed to determine presence or absence of species.

Please refer to the current Plant Species of Local Concern list which is maintained by the Forest Botanist in the White River National Forest Supervisor's Office. This list will be modified when there are updates.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Maintaining and managing viable and well-distributed habitats for all existing native and desired nonnative plants.

Exceptions: An exception may be granted if an environmental analysis determines that the activity would not impair values associated with the maintenance or viability of the species.

Modifications: A modification may be granted if an environmental analysis determines that the species has relocated; the occupied habitat has increased or decreased; or that the nature or conduct of the activity, as proposed or conditioned, would not impair values associated with the maintenance or viability of the species and would minimize or eliminate threats affecting the status of the species.

Waiver: A waiver may be granted if an environmental analysis determines that the species is no longer designated as a Species of Local Concern or if the site has been unoccupied by the species for a minimum period of 15 years.

Waivers, exceptions, and modifications will be considered on a species by species basis.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

**CONTROLLED SURFACE USE STIPULATION
Spruce-fir Old Growth & Old Growth Recruitment Stands**

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

For those spruce-fir habitats identified as old growth or old growth recruitment stands within the Late Successional Assessment Area #1 (as identified in the White River National Forest Land and Resource Management Plan 2002 Revision), special design, construction, operation, mitigation, implementation, reclamation, and monitoring measures, including relocation of operations by more than 200 meters or timing limitations beyond 60 days, may be required in order to retain old growth characteristics and ecological function.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Retention of the ecological functions of old growth spruce-fir forests and conservation of spruce-fir old growth recruitment forest stands.

Exceptions: An exception may be granted if an environmental analysis determines that the activity would not impair values associated with the maintenance or viability of the old growth or old growth recruitment stands.

Modifications: A modification may be granted if an environmental analysis determines that the old growth or old growth recruitment stands have decreased through natural causes (e.g., wildland fire, insects, blow down, etc.); or that the nature or conduct of the activity, as proposed or conditioned, would not impair values associated with the maintenance or viability of the old growth or old growth recruitment stands.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

CONTROLLED SURFACE USE STIPULATION
Sensitive Terrestrial/Avian/Invertebrate Species

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

For those areas where wildlife species listed as Sensitive by the Forest Service Rocky Mountain Region occur, special design, construction, operation, mitigation, implementation, reclamation, and monitoring measures, including relocation of operations by more than 200 meters. Sensitive Species' habitats include occupied habitat and habitat necessary for the maintenance or recovery of the species or communities. If potential habitat is present, a species specific field inventory and survey may be required at the time operations are proposed to determine presence or absence of species.

Please refer to the current Sensitive Species list which is maintained by the Threatened, Endangered, and Sensitive Species Program Leader in the Rocky Mountain Regional Office. This list will be modified when there are updates.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Avoiding impacts to Forest Service Sensitive terrestrial, avian, or invertebrate species and their habitats that would result in a trend toward federal listing or loss of viability.

Exceptions: An exception may be granted in site specific locations if an environmental analysis determines that the proposed or conditioned activities would not affect the current and subsequent suitability or ecological function of the habitats, nor result in impacts that would impair health, behaviors, habitat use, or reproductive success of Sensitive species present. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect. For Sensitive bird species, exceptions must be consistent with policies derived from federal administration of the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

Modifications: A site specific modification may be granted, in coordination with CPW, if an environmental analysis determines that a portion of the area is non-essential to site utility or ecological function, or that the nature or conduct of the activity, as proposed or conditioned would not impair the current or future values of the site for Sensitive Species activities or occupancy. For Sensitive bird species, modifications must be consistent with policies derived from federal administration of the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

Waiver: None.

Exceptions and modifications will be considered on a species by species basis.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Serial No.____

**CONTROLLED SURFACE USE STIPULATION
MODERATE GEOLOGIC HAZARDS (GMUG NF)**

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

Special interdisciplinary team analysis and mitigation plans detailing construction and mitigation techniques will be required on areas having moderate geologic hazards. (Interdisciplinary team disciplines could include: geotechnical engineer, soils engineer, roads engineer, oil and gas specialist and reclamation specialist.) Attributes constituting moderate geologic hazard include stabilized earthflows, stabilized mudflows, stabilized landslides; slopes adjacent to failed slopes or active earthflows, mudflows or landslides and avalanche chutes; areas of rockfall; flash flood zones; and areas with potential mining related problems (i.e. subsidence, acid drainage).

On lands described below:

All or portions of Sec.____, T.____, R.____, PM____, as shown on the attached map which becomes a part hereof. Any area within the leasehold which is identified as having moderate geologic hazard falls under jurisdiction of this stipulation.

For the purpose of:

To insure the stability of facilities required (roads, pipelines, drill pads, etc.) during the oil and gas operations and to insure the stability of lands adjacent to these facilities.

Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1650 and 2820.)

Form #/Date

Serial No.____

**CONTROLLED SURFACE USE STIPULATION
SLOPES 40-60% (GMUG)**

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

Special interdisciplinary team analysis and mitigation plans detailing construction and mitigation techniques will be required on areas with slopes ranging from 40-60%.

(Interdisciplinary team disciplines could include engineering, soil scientist, hydrologist, landscape architect, reclamation specialist and oil and gas specialist.)

Mitigation may include use of erosion control cloths, mats, geoweb soil support materials, lifting and saving local native vegetation in chunks of sod to be later placed over disturbed areas, reseeding disturbed banks with stabilizing seed mix, use of chemical stabilizers, tackifiers and blankets and careful design of surface water flow.

On lands described below:

All or portions of Sec.____, T.____, R.____, PM____, as shown on the attached map which becomes a part hereof. Any area within the leasehold which has slopes ranging from 40-60% falls under jurisdiction of this stipulation.

For the purpose of:

Minimizing potential for soil loss, mass land movement, revegetation failure and unacceptable visual impairment.

Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date

TIMING LIMITATION STIPULATION Raptor Species Breeding Territories

No surface use is allowed during the following time period(s). This stipulation does not apply to operation and maintenance of production facilities.

No surface use for construction, drilling and completion activities is allowed within active breeding territories around active raptor nest areas during the breeding season defined for each raptor species. No activities or other sources of disturbance with the potential to cause active raptor nests not to be used or lead to nest failure, abandonment, or mortality of fledglings are allowed during the following annual time period(s).

Current species, applicable timing restriction and buffer zones (shown below as the radius distance from an active nest) include:

American Kestrel, 1/8 mile, 2/1 – 9/15

Bald Eagle, 1/2 mile, 10/15 – 7/31

Boreal Owl, 1/8 mile, 2/1 – 9/15

Cooper's Hawk, 1/4 mile, 3/1 – 9/15

Ferruginous Hawk, 1/2 mile, 2/1 – 7/15

Flammulated Owl, 1/4 mile, 4/15 – 9/15

Golden Eagle, 1/2 mile, 12/15 – 7/15

Great Horned Owl, 1/8 mile, 2/1 – 9/30

Long-eared Owl, 1/8 mile, 2/1 – 9/15

Mexican Spotted Owl, 1/2 mile, 3/1 – 8/31

Northern Goshawk, 1/2 mile, 3/1 – 9/15

Northern Harrier, 1/4 mile, 3/1 – 9/15

Northern Pygmy Owl, 1/4 mile, 2/1 – 9/15

Northern Saw-Whet Owl, 1/8 mile, 2/1 – 8/15

Osprey, 1/4 mile, Apr 1 – Aug 31

Peregrine Falcon (cliffs), 1/2 mile, 3/15 – 7/31

Peregrine Falcon (hack sites), 1/2 mile, 7/1-9/15

Prairie Falcon, 1/2 mile, 3/15 – 7/15

Red-tailed Hawk, 1/3 mile, 2/15 – 7/15

Sharp-shinned Hawk, 1/4 mile, 3/1 – 9/15

Swainson's Hawk, 1/4 mile, 4/1 – 7/15

Western Screech Owl, 1/8 mile, 2/1 – 8/15

On the lands described below:

T. S., R. W., 6th PM

Sec. :

For the purpose of:

Preventing impacts to breeding raptors in order to increase the likelihood of successful reproduction and recruitment of young.

Exceptions: An exception may be granted if an environmental analysis of the proposed action determines that the nature or conduct of the activity could be conditioned so as not to interfere with adult attendance and visitation of the nest site, jeopardize survival of the eggs, nestlings, or fledglings, or otherwise impair the utility of the breeding territory for current or subsequent successful reproductive activity or occupancy. An exception may be granted if the breeding territory is unattended or remains unoccupied for the current breeding season and it is late enough in the breeding season of the project year to assure that the species would not re-nest. A site specific exception may be granted, in consultation with CPW or USFWS, if an environmental analysis determines that the specific activity or requested change would not impair values, behaviors, habitat use and quality, and reproductive success of raptor species present within the specific TL area. Exceptions must be consistent with policies derived from federal administration of the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect.

Modifications: A site specific modification to the TL dates or buffer distances may be granted if an environmental analysis determines that a portion of the area is not essential to breeding territory utility or

function, or that the proposed action could be conditioned so as not to interfere with adult attendance and visitation of the nest site, jeopardize survival of the eggs nestlings, or fledglings, or otherwise impair the utility of the breeding territory for current or subsequent successful reproduction activities or occupation. A modification may be granted if documentation shows the breeding territory has remained unoccupied for a minimum of 5 years, or that the site conditions of the breeding territory have changed such that there is no reasonable likelihood of breeding territory occupation for a subsequent minimum period of 10 years. Timing limitation dates and buffer distances may be modified if improved biological information based on the best available science indicates that there are more accurate breeding season dates and more appropriate buffer distances for raptors, as recognized by CPW, USFWS, and the Forest Service. A modification must be consistent with policies derived from federal administration of the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act.

Waiver: None.

Waivers, exceptions, and modifications will be considered on a species by species basis.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.

TIMING LIMITATION STIPULATION
Bald Eagle Winter Roost & Perch Sites

No surface use is allowed during the following time period(s). This stipulation does not apply to operation and maintenance of production facilities.

No surface use for construction, drilling and completion activities is allowed within ½ mile of known bald eagle winter hunting perch sites or winter communal night roost sites during the period of November 15 to March 15. No activities or other sources of disturbance with the potential to cause active bald eagle winter hunting perch sites or winter night roosts not to be used or lead to abandonment of such sites are allowed during this time period.

On the lands described below:

T. S., R. W., 6th PM

Sec. :

For the purpose of:

Preventing impacts to wintering bald eagles in order to increase the likelihood of winter survival.

Exceptions: An exception may be granted if an environmental analysis of the proposed action determines that the nature or conduct of the activity could be conditioned so as not to interfere with bald eagle use of winter hunting perches and winter roost sites, jeopardize survival of wintering bald eagles, or otherwise impair the utility of winter hunting perches and roost sites for current or subsequent winter use. An exception may be granted if the winter bald eagle hunting perch area or communal winter roost site is unattended or remains unoccupied due to frozen water sources for the current winter season and it is late enough in the winter season of the project year to assure that bald eagles would not re-occupy the sites. A site specific exception may be granted, in consultation with CPW or USFWS, if an environmental analysis determines that the specific activity or requested change would not impair values, behaviors, habitat use and quality, and winter survival of bald eagles present within the specific TL area. Exceptions must be consistent with the Bald and Golden Eagle Protection Act. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect.

Modifications: A modification to the TL dates and buffer distances may be granted if an environmental analysis determines that improved biological information based on the best available science indicates that there are more accurate breeding season dates and more appropriate buffer distances for winter bald eagle use sites, as recognized by CPW, USFWS, and the Forest Service.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.

TIMING LIMITATION STIPULATION Big Game Summer Concentration Areas

No surface use is allowed during the following time period(s). This stipulation does not apply to operation and maintenance of production facilities.

June 16 - October 14 on lands identified as deer, elk, moose, or black bear summer concentration areas.

On the lands described below:

T. S., R. W., 6th PM

Sec. :

For the purpose of:

Reduction of behavioral disturbances to big game in known summer concentration areas (used for rearing young and providing high value foraging sites) which can result in abandonment of critical habitats, reduced animal fitness, or reduction of reproductive success, recruitment, and survival.

Exceptions: A site specific exception may be granted, in consultation with CPW, if an environmental analysis determines that the proposed action could be conditioned to have no additional influence on the utility or suitability of summer concentration habitats, not compromise animal condition and health, and would not impair health, values, behaviors, habitat use and quality, interfere with current or subsequent function of summer concentration habitats (i.e. the proposed activities would not lessen overall habitat quality in future years), or reduce reproductive success/juvenile recruitment of elk, deer, moose, or black bear that use summer concentration sites within the specific area. Exceptions may also be granted for actions specifically intended to enhance the long term utility or availability of suitable habitat. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect.

Modifications: A modification of the size or timeframes may be granted, in consultation with CPW, if an environmental assessment determines that the necessary annual closure dates or boundaries of big game summer concentration area use have changed for a species. Modifications may also be granted if the proposed action could be conditioned to have no additional influence on the utility or suitability of summer concentration habitats.

Waiver: A waiver may be granted, in consultation with CPW, if an environmental analysis determines that all of the summer concentration areas in a lease area no longer satisfy their functional capacity.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.

**TIMING LIMITATION STIPULATION
Big Game Winter Ranges**

No surface use is allowed during the following time period(s). This stipulation does not apply to operation maintenance of production facilities.

December 1st - April 14th on lands identified as deer, elk, or moose winter ranges, winter concentration areas, and severe winter ranges.

On the lands described below:

T. S., R. W., 6th PM
Sec. :

For the purpose of:

Protection of wintering big game during the critical winter and early spring months of the year in order to reduce behavioral disturbances which can result in big game mortality, reduced animal fitness, or poor survivorship of young.

Exceptions: A site specific exception may be granted, in consultation with CWP, if an environmental analysis determines that (a) between the period of December 1 - 31 if mild winter conditions exist, and only if wintering big game animals are less concentrated on winter ranges and have adequate available forage outside of the specific exception area; (b) between December 1 and April 14 for a species, the proposed action can be conditioned so as not to interfere with current or subsequent habitat function (i.e. the proposed activities will not lessen overall habitat quality in future years), not compromise animal condition and health, and would not impair values, behaviors, habitat use or quality, or impact the survival of elk, deer, or moose present within the specific area. An exception may be granted, in consultation with CPW, to conduct maintenance and operations limited to those activities that would not currently or subsequently interfere with habitat function or compromise animal condition and health within the project vicinity. If an exception is granted, monitoring, special design, construction, and implementation measures, including relocation of operations by more than 200 meters (656 feet), may be required. In such situations that an exception may be granted, the activity would be subject to additional Conditions of Approval (COAs) and reclamation standards to ensure resource values are protected. Granting of an exception is a discretionary action which the operator should not routinely expect.

Modifications: A modification may be granted if an environmental analysis, in consultation with CPW, determines that the necessary annual closure dates or boundaries of big game winter range use have changed for a species.

Waiver: None.

Any changes to this stipulation will be made in accordance with the land use plan and the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820

Serial No.____

**TIMING LIMITATION STIPULATION
BIG GAME WINTER RANGE (GMUG NF)**

No surface use is allowed during the following time period(s). This stipulation does not apply to operation and maintenance of production facilities.

1. Exploration, drilling and development activity will not be allowed during the period from December 1 to April 30.
2. New oil and gas roads on public lands will be closed yearlong to the public.

On the lands described below:

Winter ranges for big game (Mule Deer, Elk, Bighorn Sheep and Turkey).
All or portions of Sec.____, T.____, R.____, PM____, as shown on the attached map which becomes a part hereof. All lands which are classified as big game winter range fall within jurisdiction of this stipulation.

For the purpose of (reasons):

Preventing unnecessary stress on the wintering wildlife herds and causing an increase in mortality resulting from disturbances and habitat losses. These areas are critical for mule deer, bighorn sheep, elk and turkey during winter. They serve as key concentration areas which support and sustain these species and are extremely important for animal survival.

Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Any changes to this stipulation will be made in accordance with the land use plan and/or the regulatory provisions for such changes. (For guidance on the use of this stipulation, see BLM Manual 1624 and 3101 or FS Manual 1950 and 2820.)

Form #/Date

This page is intentionally left blank

BLM LEASE STIPULATION AND NOTICE TO BE APPLIED TO MODIFIED UNDEVELOPED LEASES

This page is intentionally left blank

Lease Number:

CONTROLLED SURFACE USE STIPULATION
Cultural Resources

This lease may be found to contain historic properties and/or resources protected under the National Historic Preservation Act (NHPA), American Indian Religious Freedom Act, Native American Graves Protection and Repatriation Act, E.O.13007, or other statutes and executive orders. The BLM will not approve any ground disturbing activities that may affect any such properties or resources until it completes its obligations under applicable requirements of the NHPA and other authorities. The BLM may require modification to exploration or development proposals to protect such properties, or disapprove any activity that is likely to result in adverse effects that cannot be successfully avoided, minimized or mitigated.

EXHIBIT CO-56

Lease Number: <LEASE_NUMBER>

LEASE NOTICE

Due to potential air quality concerns, supplementary air quality analysis may be required for any proposed development of this lease. This may include preparing a comprehensive emissions inventory, performing air quality modeling, and initiating interagency consultation with affected land managers and air quality regulators to determine potential mitigation options for any predicted significant impacts from the proposed development. Potential mitigation may include limiting the time, place, and pace of any proposed development, as well as providing for the best air quality control technology and/or management practices necessary to achieve area-wide air resource protection objectives. Mitigation measures would be analyzed through the appropriate level of NEPA analysis to determine effectiveness, and will be required or implemented as a permit condition of approval (COA). At a minimum, all projects and permitted uses implemented under this lease will comply with all applicable National Ambient Air Quality Standards and ensure Air Quality Related Values are protected in nearby Class I or Sensitive Class II areas that are afforded additional air quality protection under the Clean Air Act (CAA).

On the lands described below:

<LEGAL_DESCRIPTION>

Attachment 5

Summary of Public Comments on the Previously Issued Leases on the White River National Forest Final Environmental Impact Statement

Background

The BLM Colorado River Valley Field Office (CRVFO) published the Previously Issued Leases on the White River National Forest (WRNF) Final Environmental Impact Statement (Final EIS or FEIS) on August 5, 2016. Following publication of the final EIS, the BLM received 60,821 comment submissions (or “comments”) on the Final EIS. Of this total, 60,801 comments were form letters (i.e., a letter containing identical or near identical information submitted by multiple individuals). Form letters often included unique text that had been added to the standard form letter content (“form-plus” comments). The remaining 20 comments were entirely unique.

The BLM reviewed all unique letters, one example of each form letter, and all “form plus” comments to identify substantive comments that address the accuracy of the EIS, the adequacy of the analysis, present relevant information or alternatives, or suggested changes to an alternative. Non-substantive comments were added to the project record, but no further action was taken. In most cases, substantive comments were identical or similar to comments submitted on the Draft EIS (or DEIS). Because these comments already received a BLM response in the Final EIS- Appendix E, Response to Comments, the BLM took no further action on these comments.

For comments that raised new topics, suggested new information, or raised question with respect to responses to a comment provided by the BLM in the Final EIS, the BLM has prepared the additional responses below to clarify or augment previous responses as needed or to respond to new comments.

Unique Comments

The BLM received 20 unique comments. Of these comments, 14 comments offered support for the cancellation of 25 leases or requested cancellation of all 65 leases. The remaining 8 comments contained substantive comment content to which the BLM has responded, below.

1. U.S. Environmental Protection Agency (USEPA or EPA) (Cooperating Federal Agency)

EPA Comment No. 1: “The EPA recommends that the BLM consider the information in the USGS study while reaching its final decision and whether this, or any other, new information would affect the RFDS for these leases (e.g. increase the number of potential total wells within the remaining 40 leases under the Preferred Alternative). If the BLM determines that development in the planning area is likely to significantly exceed that predicted in the Final EIS, we recommend committing to appropriate controls at the project analysis stage to assure environmental impacts do not exceed those predicted in the Preferred Alternative of the Final EIS, or if needed, initiating a subsequent EIS process to assess a new RFDS.”

BLM Response: Please see Appendix E Response to Public Comments, pages E-185—214 of the Final EIS, which address comments on the RDFs, and in particular, consideration of the U.S. Geological Study (USGS) report and the use of the reasonably foreseeable development scenario (RFDS) in analyzing potential impacts from development of the existing leases.

As disclosed in Section 1.5 of the EIS, the decision to be made by the BLM is whether the 65 existing leases should be: 1) Reaffirmed with their current existing stipulations; 2) Modified with additional or different lease stipulations or additional mitigation measures; or 3) Cancelled. The applicability of the existing RFDS for other development within the planning area is outside of

the scope of the BLM decision. The BLM would reevaluate the validity of the RFDS development assumptions when additional future development is proposed. The Colorado Air Resource Management Modeling Study (CARMMS) takes into account latest projections from BLM oil and gas specialists and tracks the applicable oil and gas development levels.

As noted in Section 2.4, the BLM has determined that best management practices (BMPs), project controls or Conditional of Approval (COAs) are more appropriately considered during the Application for Permit to Drill (APD) process, after operators submit a site-specific plan of operations for evaluation. During the APD process, potential resource issues would be identified during any onsite reviews. The site-specific environmental analysis at the APD stage may identify mitigation measures to be attached to the approved permit as COAs.

EPA Comment No. 2: “Given current ozone values and potential for the CARMMS model to underestimate ozone and ozone precursor predictions, the EPA recommends the ROD clarify that oil and gas development will be limited to the specific lease parcels in the Final EIS Preferred Alternative, with no new leases in the project area until they can be assessed under a subsequent EIS analysis.”

BLM Response: While the modeling may underestimate ozone in some locations of the CARMMS, this would not affect the amount of source apportionment ozone contribution that would be associated with the CRVFO planning area. Moreover, as disclosed in Section 1.5 of the EIS, the decision to be made by the BLM is whether the 65 existing leases should be: 1) Reaffirmed with their current existing stipulations; 2) Modified with additional or different lease stipulations or additional mitigation measures; or 3) Cancelled. Development of new leases is outside the scope of the decision. Other new leases not analyzed in this EIS were previously analyzed in other EISs such as the White River NF O&G EIS and the CRV RMP.

EPA Comment No. 3: “We recommend that mitigation requirements be aligned with those included in the CRVFO, WRNF, and WRFO BLM RMPs since they all affect the same airshed. If the BLM decides not to pursue this recommendation at this time, it will be more important to apply robust near-field and far-field quantitative analysis at the project analysis stage for each project (such as an EIS, or EAs for APDs). In addition, we recommend that the ROD include a notice to lessees that project-level air quality analyses, and additional mitigation, may be required. “

BLM Response: See response EPA comment #1 regarding application of BMP and COAs. Colorado Department of Public Health and Environment (CDPHE) and EPA regulations have strengthened considerably over the past few years for the oil and gas industry and many emission reduction strategies (e.g. Tier 2 or better drill rig engines) are already employed across the project area. During site-specific evaluations, the BLM may consider, as appropriate, additional emission reduction strategies, such as Tier 4 engines drill rig engines, techniques that reduce fugitive and venting emissions, low emission infrastructure such as closed loop systems, and potential controls for sources that may be otherwise uncontrolled.

The lease notice relating to air quality analysis requirements is included in the decision (see Record of Decision [ROD] Attachment 4, page 60). The notice would be applied to all modified undeveloped leases.

EPA Comment No. 4: “BLM should not evaluate GHG emissions by comparing them to state emissions. According to CEQ, such comparisons are ‘not an appropriate method for characterizing the potential impacts associated with a proposed action and its alternatives and mitigations because this approach does not reveal anything beyond the nature of the climate change itself: the fact that diverse individual sources of emissions each make a relatively small addition to global atmospheric GHG concentrations that collectively have a large impact’. Similarly, it is not meaningful to compare the CRVFO planning area GHG emissions to the 2008 USEPA modeled source. We also note that, given the substantial advancements in climate science and associated models since 2008, we do not recommend using the 2008 model in general. Instead, in future NEPA documents, the EPA

recommends that the BLM follow the approach outlined by the CEQ's Guidance regarding the analysis of greenhouse gas (GHG) emissions and climate change."

BLM Response: Final Council on Environmental Quality (CEQ) guidance on climate change considerations during NEPA reviews (August 1, 2016) is generally forward-looking guidance. CEQ offers that "agencies should apply this guidance to all new proposed agency actions when a NEPA review is initiated." It also provides that "agencies should exercise judgement when considering whether to apply this guidance to the extent practicable to on-going NEPA process." This EIS was initiated prior to the final CEQ guidance and relied on the draft guidance at the time.

The 2016 final guidance is largely the same as the revised draft guidance issued in 2014, with two notable changes: First, the final guidance no longer specifies a threshold for quantifying GHG emissions. Instead, it directs agencies to quantify emissions whenever the tools and data are available to do so. Second, the language calling for consideration of "upstream" and "downstream" emissions has been removed, and replaced with reference to the more technically precise term, "indirect effects." Neither of these changes affects the GHG and climate change analysis contained in the Final EIS.

The BLM agrees with EPA that the CEQ Guidance discourages the comparison of the action's GHG emissions with estimates from the state, and acknowledges that air quality analysis offering a comparison to state emissions should have been removed from the analysis in Section 4.2.4 to better align with CEQ guidance. The remainder of the referenced section that discusses the potential impacts of GHG emissions follows the CEQ draft guidance from December 2014. In this analysis, the BLM acknowledges that anthropogenic greenhouse gas emissions are contributing to climate change. In particular, it provides a quantification of the GHG emissions for the action and its alternatives; in as much as possible it accounts for the effects of connected actions; it discloses direct and indirect effects of GHG emissions based on available information and accounts for cumulative effects.

EPA Comment No. 5: "BLM's discussion in the FEIS regarding the Social Cost of Carbon (SCC) seems to conflate the calculation of the SCC itself with the application of the SCC to estimate benefits/ disbenefits and concludes SCC is too uncertain for use in this analysis. All analyses involve uncertainty, however, and EPA and the other members of the Federal Interagency Working Group on SCC have determined that the uncertainty in SCC estimates does not undermine the use of these estimates. The SCC estimates reflect the best available science and methodologies developed by the Federal Interagency Working Group on Social Cost of Carbon. Therefore, the EPA recommends that future BLM NEPA documents more clearly distinguish between the uncertainty involved in calculating CO2 and other GHG emissions changes associated with the proposed action and alternatives and the usefulness of monetizing those changes by applying the social cost of GHG estimates published by the Interagency Working Group."

BLM Response: The BLM acknowledges EPA's recommendation to include in future NEPA documents a separate discussion of the uncertainties related to the estimates of the SCC and the application of such estimates to discuss the action's benefits and cost. The BLM in the Final EIS recognizes that there are adverse environmental impacts associated with the development and use of fossil fuels and discusses these impacts qualitatively, which is consistent with the CEQ guidance. The BLM provides an analysis that appropriately weighs the merits and the drawbacks of the proposed action and alternatives, without reduction to an imprecise monetary or quantitative cost-benefit analysis. However, the Final EIS is not a cost benefit analysis. Without any other monetized benefits or costs reported, monetized estimates of the SCC would be presented in isolation, without any context for evaluating their significance. This limits their usefulness to the decision maker.

EPA Comment No. 6: “The EPA recommends use of the Functional Assessment of Colorado Wetlands (FACWet) to assess the functional quality and type of wetlands that could be impacted. Completing this inventory and analysis provides the BLM and the USFS with additional RMP implementation options and flexibility for setting priorities for wetland protection and impacts....The FEIS uses the 1993 USFS RMP/EIS for identification and protection of wetlands resources rather than the more current 2015 RMP. The EPA recommends the most accurate, up-to-date wetlands information be used to complete the above wetlands identification and functionality assessment.”

BLM Response: As noted in Table 3.6-1 of the Final EIS, riparian/wetland cover acreage was derived from multiple datasets provided by the U.S. Forest Service (Forest Service or USFS) that were published between 1999 and 2014:

- *Forest Service Water Influence Zones:* the dataset was published in 2010.
- *National Wetlands Inventory (NWI):* The dataset was published 2014.
- *Forest Service Vegetation data:*
 - *Riparian:* The dataset was published in 1999.
 - *General Vegetation:* No publication date provided; identified time period of content is 2011.
- *Forest Service Fen data:* 2 datasets, one was published 2010. The other dataset has no identified publication date but was last processed in 2011.

Section 9.2 of the ROD (Final EIS Corrections) contains this additional information to clarify the source and dates of these datasets. The BLM will consider the use of the FACWet analysis during the APD process as appropriate, after operators submit a site-specific plan of operations for evaluation.

EPA Comment No. 7: EPA made the following comments / recommendations for consideration in the ROD or future site-specific development:

- “A geologic map would help inform future site specific project requirements by identifying where fluid movement through faults and fractures is more likely and therefore may require additional protections for groundwater through appropriate wellbore placement and construction/cementing.”
- “The quote from the USGS report by Thomas and McMahon (2012) that states ‘most water wells in the vicinity are alluvial’ has the potential to be misunderstood. While the statement in the EIS is technically true, it is important to note that almost half of the domestic wells identified in the report are not alluvial. Therefore, it is important to manage potential contamination pathways from surface and subsurface sources.”
- “The Final EIS makes the case that Colorado Oil and Gas Conservation Commission (COGCC) Rule 317B along with the Colorado Source Water Assessment and Protection (CSWAP) program will assure protection of all aquifers..... Rule 317B pertains specifically and solely to surface water and is not intended to protect groundwater. Similarly, the Colorado Source Water Assessment and Protection (CSWAP) program applies to both surface water and groundwater, including groundwater which is hydraulically connected to surface water (i.e., alluvial aquifers)..... CSWAP groundwater protections only apply to those aquifers that currently serve as a public water supply, and include no additional protections for deeper aquifers supplying individual domestic water wells..... If groundwater monitoring practices are not implemented for these areas, EPA recommends that projects in these leases include stringent well construction requirements as well as the mitigation measures for both surface and subsurface pathways described in EPA’s Draft EIS comments.”
- “EPA recommends that future project specific NEPA documents include an accurate representation of current use of both alluvial and bedrock aquifers within the planning area to better inform an appropriate groundwater monitoring program for the project area.”

- “Understanding the known impacts within existing lease zones would help identify how specifically, risks to groundwater can be minimized. The EPA recommends future NEPA documents in the planning area provide a more complete citation of information that identifies such known impacts. For example, when referring to the Thyne 2008 Report, the Final EIS only discusses the types of contamination that Thyne (2008) concludes are not related to O&G operations. The Final EIS does not acknowledge and discuss existing, documented contamination events related directly to oil and gas operations, such as those also discussed in detail in the same document (Thyne, 2008). We recommend BLM consider the evidence of existing contamination routes, and including in the ROD specific measures that will prevent future contamination in this geologically complex field as BLM considers its final decision.”

BLM Response: As detailed on pages E-55 of the Final EIS, The BLM determined that the inclusion of large-scale structural maps would not provide useful information or insight into the analysis of potential impacts.

The BLM understands that many domestic wells in the area are not alluvial; see previous response to comment on page E-305 of the Final EIS. The BLM’s response on page E-53 describes many of the rules in place to protect water resources.

The BLM recognizes that Rule 317B does not deal with groundwater sources of drinking water, which is why stipulation coverage of Rule 317B areas is not discussed in the analysis of groundwater resources. With respect to the concerns identified by the EPA, site-specific analysis at the APD stage would establish appropriate resource protections to minimize adverse impacts, including casing, cementing, and well monitoring requirements as required under COGCC rules, BLM Onshore Oil and Gas Regulations and Order, Standard Operating Procedures, best management practices, and conditions of approval issued by the BLM. Stricter and standardized casing, cementing, abandonment standards as issued by the COGCC appear to be the best path to reducing the potential for contamination as identified by the EPA. Please see COGCC Casing and Cement Standards for Geologic Isolation Piceance Basin Bradenhead Monitoring Area and Nearby Fields, April 18, 2016, (<http://cogcc.state.co.us/data2.html#/fieldscoutcards>). Although the Piceance Basin Bradenhead Monitoring Area (BMA) only covers a portion of the leases under consideration, it could be used as a basis for developing COAs for individual APDs outside of the BMA and fields covered by the standard. According to the report, it “summarizes current and past...requirements in the Piceance Basin BMA and nearby areas to the north and east; it outlines planned changes to requirements for cement isolation during primary cementing of casing strings, during remediation when bradenhead pressure or flow thresholds have been exceeded, and during plugging of wells. The “report generally discusses new requirements as they apply to all fields referenced” in the document.

The BLM will consider the needs for development of appropriate groundwater monitoring programs and mitigation after operators submit a site-specific plan of operations for evaluation and after consideration of site-specific descriptions of existing, documented contamination events related directly to oil and gas operations at the site.

EPA Comment No. 8: “In order to more accurately reference groundwater impacts due to oil and gas development, and to identify and consider existing impacts and appropriate mitigation measures for the project area, we recommend BLM consider the following additional references:

- Albrecht, T. R. 2007. Using Sequential Hydrochemical Analyses to Characterize Water Quality Variability at Mamm Creek Gas Field Area, Southeast Piceance Basin, Colorado. Master’s Thesis: Colorado School of Mines, 114p. –
- McMahon, P.B., Thomas, J.C., and Hunt, A.G., 2011, Use of diverse geochemical data sets to determine sources and sinks of nitrate and methane in groundwater, Garfield County, Colorado, 2009: U.S. Geological Survey Scientific Investigations Report 2010-5215, 40p.

- McMahon, P.B., Thomas, J.C., and Hunt, A.G., 2013, Groundwater ages and mixing in the Piceance Basin Natural Gas Province: Environmental Science and Technology, v. 47, 13250-13257. x.doi.org/10.1021/es402473c."

BLM Response: The BLM has reviewed the referenced resources. The McMahon et al. 2011 reference cited above is already included in the Final EIS (see page 4.16-2 of the Final EIS, which summarizes and incorporates by reference information contained in the CRVFO Proposed RMP/Final EIS and the 2014 Final EIS for Future Leasing). The conclusions contained in Albrecht 2007 are similar to the conclusions as Thyne 2008; in fact, the Thyne 2008 study includes Albrecht 2007 as a reference. A summary of the salient points of Thyne 2008 is included in the Final EIS (see pages 3.5-22/23). McMahon 2013 is not included in the Final EIS; however, the report's conclusions are similar those contained in Section 3.5 of the Final EIS, which identifies wells as a major potential pathway for the unintentional movement of fluids. The analysis in Section 4.5 of the Final EIS reflects this information (see page 4.5-17/18). As noted in the analysis, the COGCC recently strengthened rules to increase protection of groundwater from oil and gas operations, including stricter casing and cementing requirements. The COGCC also instituted special drilling and completion requirements for a region defined as the Mamm Creek Field Area which includes a number of the subject leases. Thyne (2014) has stated that improved casing and cementing procedures have lessened contamination problems in the Mamm Creek Field Area. See also Response to Draft EIS comments regarding regulation of oil and gas development on page E-53 and E-308. See also Response to EPA Comment No. 7 regarding COGCC casing and cement standards for Geologic Isolation Piceance Basin BMA and Nearby Fields.

Based on its review of the Final EIS, the BLM has concluded that the additional references identified by the EPA do not constitute significant new circumstances or information requiring a revision of its analysis. The BLM will consider such information, as applicable, during any subsequent site-specific NEPA analysis.

2. Mesa County (Cooperating Local Agency)

Mesa County's comment letter contained the following comments, most of which were in their Draft EIS comment letter: 1) changing any of the existing leases is a breach of contract with the leaseholders; 2) the BLM should reaffirm the existing leases by adopting the 1993 Oil and Gas EIS; 3) The Final EIS goes beyond the scope of the 2007 Interior Board of Land Appeals decision; 4) the BLM must consider new information a recent U.S. Geological Survey (USGS) study regarding Mancos Shale in the Piceance Basin of Colorado, as "significant new information" triggering a legal obligation for BLM to reopen and republish the Draft EIS alternatives.; 5) the BLM failed to sufficiently consider the effects of its proposed lease modification and cancellations on the local economies; 6) the Proposed Alternative is based on the 2014 White River National Forest Record of Decision (ROD), which only applies to future leases and cannot be legally applied retroactively to the existing leases in the FEIS.

BLM Response: All comments were addressed in the Final EIS, Appendix E Response to Public Comments. Additionally, see comment to EPA Comment No. 1, which provides an augmented response regarding the USGS report.

3. Garfield County (Cooperating Local Agency)

Garfield County's comment letter supported reaffirmation of leases currently in production or committed to an exploratory unit agreement or communitization agreement and addressing inconsistencies with the 1993 EIS and ROD by adding stipulations identified in the 1993 EIS and ROD that were not attached to those leases as issued. The county urged the BLM to reject requests to cancel additional leases or retroactively apply costly post-1993 lease stipulations beyond what is specified in the Preferred Alternative. The letter contained one new comment:

BLM Response: All previous comments were addressed in the Final EIS, Appendix E Response to Public Comments. The one new comment is discussed below.

Garfield County Comment No. 1: “Garfield County ... asks BLM to rescind the portion of the Preferred Alternative that would cancel 4 active leases and 4 expired leases located in Mesa County. These elements of the Preferred Alternative are not consistent with the previously stated intent of BLM during cooperating agency consultations to focus lease cancellation considerations to leases located outside of Mesa County”.

BLM Response: The decision is consistent with the goals and the rationale for the Preferred Alternative as articulated to the Cooperating Agencies. As described in Chapter 5 of the Final EIS, the BLM has engaged Cooperating Agencies at meetings throughout the process and considered all concerns expressed and documents provided by the Cooperating Agencies in support of those concerns. Section 5 of the ROD outlines the reason for the decision and management considerations. No inconsistencies between this decision and any state, county, or local plans were identified. The BLM did not make any changes in response to this comment.

4. Western Energy Alliance/ Western Slope Colorado Oil and Gas Association (Non-governmental Organization [NGO])

The comment letter from Western Energy Alliance/Western Slope Colorado Oil and Gas Association (“Trades”) stated that the BLM failed to adequately analyze best scientific information in the Final EIS, specifically information contained in the USGS report of Mancos Shale production in the Piceance Basin.

BLM Response: This comment was addressed in the Final EIS, Appendix E Response to Public Comments. Additionally, see comment to EPA Comment No. 1, which provides an augmented response regarding the USGS report.

The letter contained two new comments stating that the BLM's previous response to comment regarding the need to reexamine the leases and the need to incorporate new data new data was inadequately addressed. Detailed comments and responses are included below.

Trades Comment No. 1: “Despite the fact that BLM agrees that the USGS report is “the best available scientific information to inform BLM’s NEPA process’, BLM decided to simply give ‘lip service’ to its importance, but not let it interfere with the agency’s self-imposed schedule to issue the ROD this fall. Instead BLM inaccurately claims that it has adequately used the data to update its FEIS. BLM only did two things to address the USGS report: 1) modified the text in the FEIS, Affected Environment, Geological Resources (Section 3.3) to simply note the numbers in the USGS report for this new ‘undiscovered resource’; and 2) provided 3 long responses to comments on the USGS report. These two actions do not constitute adequate compliance with either the BLM Guidelines or NEPA regulations. The Council on Environmental Quality (CEQ) NEPA Guidance directs that a response to a substantive comment should result in changes to the text of the NEPA document and not simply lengthy responses to comments in a separate comment response appendix. Instead of incorporating what BLM admits is the ‘best available scientific information,’ BLM in its several responses to comments, argues why nothing needs to change.”

BLM Response: The BLM carefully reviewed the USGS report and determined that the information in it, while relevant, did not provide significant new information requiring a revision of the RFDS or other development assumptions. The EIS was updated to reference the new data, and the BLM provided a response to explain its evaluation of the new information and why the information did not warrant a change in the RFDS. The referenced CEQ guidance cited states the following [emphasis added]: “Appropriate responses to comments are described in Section 1503.4. **Normally** the responses should result in changes in the text of the EIS, not simply a separate answer at the back of the document...”

40 CFR 1503.4 contains the following applicable guidance [**emphasis added**]:

(a) An agency preparing a final environmental impact statement shall assess and consider comments both individually and collectively, and shall respond by one or more of the means listed below, stating its response in the final statement. Possible responses are to:

(1) Modify alternatives including the proposed action.

(2) Develop and evaluate alternatives not previously given serious consideration by the agency.

(3) Supplement, improve, or modify its analyses.

(4) Make factual corrections.

(5) Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal or further response.

(b) All substantive comments received on the draft statement (or summaries thereof where the response has been exceptionally voluminous), should be attached to the final statement whether or not the comment is thought to merit individual discussion by the agency in the text of the statement.

In other words, responses do not always merit change in the document, and the BLM has followed response guidance contained in 40 CFR 1503.4.

Trades Comment No. 2: “BLM argues that it must address the NEPA deficiency identified by the IBLA in 2007... The BLM, in the Preferred Alternative, will allow all producing and committed leases to continue to rely on the “deficient” NEPA. Based on these actions, it appears BLM believes it has some discretion when addressing a NEPA deficiency which does not always compel lease cancellation. BLM’s rationale for not taking the available option identified by the IBLA in 2007 of adopting the existing Forest Service NEPA for all 65 leases is inadequate given BLM’s above-described prior actions and the Preferred Alternative. On the one hand, BLM is deciding to overlook a NEPA “deficiency” and leave producing/committed leases unchanged because BLM “recognizes the adverse economic impacts for the local governments and technical challenges for the BLM associated with any decision to cancel producing or committed leases.” Yet, on the other hand, BLM is emphasizing the NEPA “deficiency” and changed circumstances to justify cancellation of 25 leases and modification of others. But why doesn’t BLM similarly “recognize the adverse economic impacts to local governments” and the lessees and affirm the leases? BLM doesn’t address this obvious question. BLM illogically argues that while it has the authority to cancel leases for flaws at lease issuance and it would be unreasonable not to do so in the case of the so-called Thompson Divide leases, it would be a “technical challenge” for BLM to do so in the case of producing/committed leases. BLM should do a more thorough analysis of its legal authority to cancel leases under these facts, before it cancels long-held, valid existing leases.”

BLM Response: The BLM’s authority to cancel or modify undeveloped and producing / committed leases is addressed in the Final EIS, Appendix E Response to Public Comments, and is restated in the BLM’s Record of Decision (ROD). The BLM is not overlooking the NEPA “deficiency” by reaffirming producing / committed leases. As explained in the EIS, the 65 leases are “voidable,” which means the BLM has discretion with respect to the underlying issue. The completed EIS process corrects the NEPA deficiency and the decision considers the effects of leasing on the human environment per regulations at 43 CFR Part 46 and CEQ requirements. The BLM’s decision does apply different solutions to various leases based upon the EIS analysis. The rationale for those solutions is described in Section 2.3.6.1 of the Final EIS.

5. Encana (Business)

Encana's comment letter contained the following comments, most of which were in their Draft EIS comment letter: 1) Encana Supports the No Action Alternative; 2) Encana's leases may not be modified without Encana's consent; 3) the BLM may not administratively cancel Encana's currently producing leases or leases within a producing unit; 4) the BLM must not cancel Encana's existing leases; 5) BLM must respect Encana's valid existing rights and may not unilaterally modify Encana's existing, contractual lease rights.

BLM Response: All comments were addressed in the Final EIS, Appendix E Response to Public Comments.

6. SG Interests (Business)

SG Interests' (SG) comment letter contained the following comments similar to comments made by SG after release of the Draft EIS: 1) BLM must consider and address significant new USGS information in a supplemental EIS; and 2) BLM can and should select Alternatives 1 or 2 to affirm the leases

BLM Response: All comments were addressed in the Final EIS, Appendix E Response to Public Comments. Note also BLM's response to Trades Comment No. 2 regarding "overlooking" the NEPA deficiency.

SG's comment letter also contained new comments stating that the BLM must consider and respond to comments on the final EIS availability period; that the Final EIS did not adequately address the authority to cancel SG's contract rights in these circumstances; that the BLM must consider a supplement to the EIS to further address the USGS report. Detailed comments and responses are included below.

SG Comment No. 1: "BLM apparently takes the position that it has the option to consider or not consider comments made during the FEIS 30-day availability period. That is not correct. CEQ regulations indicate that BLM must respond to substantive comments received from other government agencies and from members of the public on the FEIS..... the BLM NEPA Handbook H- 1790-1 recommends that if the comments warrant further consideration, the decision-maker must determine whether new impacts, new alternatives, or new mitigation measures must be analyzed in either the final EIS or a supplemental draft EIS".

BLM Response: All comments were considered in development of the ROD. The BLM determined that comments did not identify new impacts, new alternatives, or new mitigation measures that must be analyzed, and therefore no additional analysis is required. The BLM has responded to substantive comments in this Attachment. Per 43 CFR 1503.4, BLM is obliged to respond to substantive comments on the Draft EIS (see also BLM NEPA Handbook H-1790-1, Section 6.9.2.2). Per the BLM NEPA Handbook (referencing the 30-day availability period), "Although this is not a formal public comment period, you may receive comments...Any comments received may be addressed in the ROD. However, review any comments on the final EIS, to determine if they have merit..." The BLM has undertaken the required review and determined that additional analysis is not required.

SG Comment No. 2: "... USGS findings obligate BLM to, at a minimum, supplement the FEIS by incorporating a thorough consideration of the USGS findings. BLM needs to consider this new information in the Alternatives Analysis (Chapter 2), the Affected Environment chapter (Sections 3.3 Geological Resources and 3.17 Socioeconomics) and Environmental Consequences chapter (Sections 4.3 Geological Resources, 4.17 Socioeconomics and 4.20 Irreversible and Irretrievable Impacts)."

BLM Response: Per 43 CFR 1502.9(c) (**emphasis added**)

Agencies shall prepare supplements to either draft or final environmental impact statements if:

- (i) *The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or*
- (ii) *There are **significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.***

As further detailed in BLM NEPA Handbook H-1790-1, Section 5.3:

"New circumstances or information" are "significant" and trigger the need for supplementation if they are relevant to environmental concerns and bearing on the proposed action and its effects (i.e., if the new circumstances or information would result in significant effects outside the range of effects already analyzed). New circumstances or information that trigger the need for supplementation might include the listing under the Endangered Species Act of a species that was not analyzed in the EIS; development of new technology that alters significant effects; or unanticipated actions or events that result in changed circumstances, rendering the cumulative effects analysis inadequate.

As stated in the response to Trades Comment No. 1, the BLM reviewed new USGS report and determined that the information, while relevant, did not provide "significant new circumstances or information" requiring a revision of the RFDS or other development assumptions. The Affected Environment section for Geology and Minerals was updated to reference the new data, and the BLM provided a response to explain why the information did not warrant a change in the RFDS or development assumptions contained in Chapter 2 of the Final EIS (the Socioeconomics analysis was not revised because it relies on the development assumptions contained in Chapter 2). The BLM will reevaluate the validity of the RFDS development assumptions when additional future leasing or development is proposed, as appropriate based on the best available information at that time.

SG Comment No. 3: "Moreover, BLM's response to SG's comments on the USGS report amount to an argument as to why the USGS data really doesn't change anything. This does not comply with NEPA. CEQ recommends that responses to substantive comments should normally result in changes in the text of the NEPA document, rather than as lengthy replies to individual comments in a separate section. See Question 29a, CEQ, "Forty Most Asked Questions Concerning CEQ's NEPA Regulations," 46 Fed. Reg. 18026 (March 23, 1981).

BLM Response: See response to Trades Comment No. 1 regarding responses to substantive comments and CEQ's guidance.

SG Comment No. 4: "BLM's response to the Addendum Comment further undermines the NEPA process by writing off the significance of the USGS data without support. The BLM response to SG's comments makes vague, conclusory statements that don't stand up, for example: "the RFDS used for analysis in the EIS already included consideration of unconventional plays as possible candidates for leasing and development in the future." Yes, but that analysis relied on geological data in the early stages of Mancos Shale unconventional development that is now woefully out-of-date—the resource base has been increased by more than 40 times according to the USGS. Despite recognizing that the USGS report is the "best available scientific information," BLM's comment response illogically concludes that it is "not appropriate" for BLM to consider how the USGS findings on the Mancos Shale apply to a particular area within the larger findings. BLM goes on to state that the "potential of this resource is still being sorted out" and that development of horizontal gas plays are still in the "exploratory stage." BLM WRNF FEIS at E-136-138; E-213-215. It is obvious that BLM's conclusion here is driven more by its self-imposed clock for its ROD, rather than by NEPA's requirements for consideration of new information. As SG suggested, if BLM wants to "appropriately" consider this more current information, it should do so in a supplemental NEPA process. Such a process would

provide BLM with the time necessary to consult with USGS on the import of these Mancos Shale findings for the particular area of the Piceance Basin in which the leases are found”.

BLM Response: See Response to Trades Comment No. 1 and SG Comment No. 2 regarding the USGS report and call for a supplemental analysis. In evaluating the USGS report, the BLM field office and state office minerals resource specialists reviewed the USGS’s assessment and determined that it does not change the analysis in the RFDS or the EIS. As stated in Appendix E, the USGS assessment is regional in scale, it is not designed or intended to address the extent of the resource found under the area covered by the EIS or any particular lease or group of leases. The analysis area covered by the Final EIS is a small fraction of the total area covered by USGS’ assessment, which is a broad-scale and general in nature as it tries to assess the total potential resource across five different, and somewhat overlapping, vertically stacked geological areas within the 4,000-foot-thick Mancos shale. It is not appropriate to take that type of study and try to use it to provide deterministic estimates about a particular area as the commenter’s urge. BLM staff has considerable expertise in evaluating USGS-generated resource assessment for appropriate inclusion in the development of reasonably-foreseeable development scenarios, including the consideration of economic, price, and development trends which were not a focus of the USGS report.

SG Comment No. 5: “Moreover, the Joint Comment also discusses at length the significant legal consequences of lease cancellation in terms of BLM’s contractual obligations. The FEIS does not reflect any changes to the text nor does it include an adequate response to SG’s assertions of its legal rights. The BLM states that it “has the authority to cancel a lease if it was improperly issued (see 43 CFR. 3108.3(d))” and that since BLM has not yet made a decision in the FEIS which is a disclosure document only, it is not obligated to say anything more until the ROD. See, e.g., FEIS E-84-85. Although BLM includes a more thorough explanation of its legal authority to cancel leases, it never addresses the particular facts and circumstances of the 25 leases the Preferred Alternative would cancel. See BLM Response to Comment at FEIS E-127 (describing the Secretary’s inherent authority to cancel leases issued in violation of law) and FEIS E- 179; E- 181 and E-184 repeating similar justifications. BLM’s FEIS does not comply with NEPA and should be revised before ROD issuance.”

BLM Response: The BLM has the authority to cancel leases that were improperly issued, bona fide purchaser protection, equitable estoppel, and laches notwithstanding. The BLM’s authority is discussed in multiple places in the Final EIS (e.g., E-84, E-85, E-99, E-127, E-179; E-181 and E-184). Section 1.2 of the Final EIS was revised in response to comments. The revised section is as follows:

The BLM has the authority to cancel a lease if it was improperly issued (43 CFR § 3108.3(d)). The Secretary of the Interior has inherent authority, under her general managerial power over public lands, to cancel leases issued in violation of a statute or regulation. That authority is not superseded by the Mineral Leasing Act (MLA). That authority is reflected in MLA’s implementing regulations. Under this authority, BLM may cancel leases if they were issued in violation of NEPA or other laws. The IBLA has characterized as “void” and “a legal nullity” any lease issued for lands that were not legally available for leasing at the time they were issued. In contrast, it has characterized as “voidable” any lease issued in violation of a procedural requirements, such as NEPA, which does not compel any particular decision. In other words, a void lease is one that suffers from a substantive defect that BLM cannot cure, such as including lands that were not available for BLM to lease at the time they were issued. A voidable, cancelable lease is one that suffers from a procedural defect that BLM may be able to correct at its discretion with further action on its part.

Section 9.2 of the ROD (Final EIS Corrections) clarifies that the responses to comments on ages E-84, E-85, E-99, E-127, E-179; E-181 and E-184 should have contained a reference to the revised text in the Final EIS.

7. WillSource Enterprise (WillSource) (Business)

WillSource's comment letter contained the following comments, which were similar to comments made on the Draft EIS: 1) the BLM may not cancel WillSource's leases; 2) WillSource is entitled to bona fide purchaser protection; 3) the BLM is estopped from cancelling or modifying any of WillSource's leases; and 4) the BLM cannot use recently acquired data as the basis for modifying or cancelling the 65 previously issued leases.

BLM Response: All comments were addressed in the Final EIS, Appendix E Response to Public Comments.

WillSource's comment letter also contained new comments stating that the BLM's response to several Draft EIS comments were inadequate:

WillSource Comment No. 1: "...the BLM must fully consider the June 2016 U.S. Geological Survey ("USGS") report ("2016 Report"), which demonstrates that the Mancos Shale in the Piceance Basin holds 66 trillion cubic feet of natural gas.... At a minimum, the reasonably foreseeable development scenario must be supplemented to incorporate the 2016 Report. See 40 C.F.R. § 1502.9(c).

BLM Response: The Final EIS, Appendix E Response to Public Comments addresses comments regarding the USGS report (E-136 and elsewhere). Additionally, see EPA Comment No. 1 and SG Comment Nos. 2–4, to which the BLM has provided additional responses regarding the USGS report and the need for EIS revision or supplementation.

WillSource Comment No. 2: "...The Draft EIS fails to accurately account for the existing natural gas resources accessible from the 65 leases. On January 4, 2016, a natural gas well was drilled on private land less than a mile from the southern border of some of the 65 leases. This well demonstrates "prolific initial natural gas production." WillSource requests that the CRVFO supplement the FEIS to incorporate the data available from the newly drilled well. See 40 C.F.R. § 1502.9(c).

BLM Response: The Final EIS, Appendix E Response to Public Comments addresses recent Mancos shale gas wells production wells (E-197-198). Additionally, see EPA Comment No. 1 and SG Comment Nos. 2–4, to which the BLM has provided additional responses regarding the USGS report and the need for EIS revision or supplementation.

WillSource Comment No. 3: "The FEIS wrongly assumes that "[n]atural gas production for Alternatives 2 through 4 and the Preferring Alternative would be similar to Alternative 1.... Future natural gas production under the Preferred Alternative would be slightly lower than that for Alternative 4 (2 percent) and would correspond to approximately a 9 percent decrease from Alternative 1's projected future rate of production." The BLM's assumptions are flawed and cannot serve as the underlying basis for the FEIS. The Preferred Alternative will severely limit the amount of production from the 65 leases and the FEIS should be supplemented to demonstrate as much. See 40 C.F.R. § 1502.9(c)."

BLM Response: The Final EIS, Appendix E Response to Public Comments responded to this comment (see E-244). The Draft and Final EISs outlined its development and production assumptions by alternative in Section 2.7. Although the commenter asserts that the production for the Preferring Alternative would be severely limited, the commenter has neither challenged any specific assumptions contained in Chapter 2 nor provided significant new information that would warrant reconsideration of those assumptions or production estimates. See EPA Comment No. 1 and SG Comment Nos. 2–4, to which the BLM has provided an augmented

responses regarding the USGS report and the need for EIS revision or supplementation due to significant new circumstances or information.

WillSource Comment No. 4: “The Colorado Roadless Rule was first enacted in 2001. After extensive legal challenge, the Colorado Roadless Rule was amended in 2012. The 2012 CRR was enacted subject to valid existing rights, and affirms all oil and gas leases issued by the BLM prior to January 12, 2001. Any stipulations or prohibitions found in the 2012 CRR apply only to future oil and gas leases issued in roadless areas. Thus, it is improper for the BLM to attempt to restrict any of the 65 leases based on roadless areas identified by the CRR. Importantly, the Forest Service admits that the CRR does not require imposition of NSO stipulations. WillSource requests that the CRVFO remove all proposed NSO stipulations based upon roadless areas from its leases.”

BLM Response: The 2001 Roadless Rule is a nation-wide roadless rule. Colorado did not amend the Rule in 2012, but rather promulgated its own Rule to address state-specific concerns. The Colorado Roadless Rule provides management direction for certain lands managed by the US Forest Service. The Final EIS, Appendix E Response to Public Comments addresses comments regarding the development and application of stipulations to Roadless Areas (see E-89, E-182, and E-274, e.g.). As noted in on page E-89 and elsewhere, alternatives with modified stipulations included NSO stipulations for Colorado Roadless Areas to match the USFS decisions regarding where oil and gas development should be located in the WRNF. As noted on page E-137 and E-214, the focus of the Forest Service decision was on both conserving the roadless and existing character of the WRNF, while also providing oil and gas development opportunities on lands that have proven to be productive in the past 10-15 years.

Under the decision, WillSource leases are reaffirmed (some provisionally) with only missing 1993 stipulations added per Alternative 2. There are no new roadless area stipulations being applied to these leases.

WillSource Comment No. 5: The BLM failed to adequately address public comments relating, inter alia, to the BLM's authority to cancel oil and gas leases in light of bona fide purchaser protection, equitable estoppel, and laches. See FEIS at E-102—E-127. WillSource requests that the BLM specifically clarify why bona fide purchaser protection, equitable estoppel, and laches do not prohibit the BLM from modifying and cancelling any of the 65 previously issued leases.

BLM Response: The BLM has the authority to cancel leases that were improperly issued, bona fide purchaser protection, equitable estoppel, and laches notwithstanding. For example, Section 27(h)(2) of the MLA provides that the Secretary's right to cancel or forfeit a lease for violation of any provision of the MLA “shall not apply so as to affect adversely the title or interest of a bona fide purchaser of any lease.” 30 U.S.C. 184(h)(2). By its terms, this provision applies only in cases where the cancellation is “for violation of” the MLA, and does not shield purchasers from, or affect the Secretary's authority of lease cancellation based on pre-lease violations of statutes other than the MLA, like NEPA. See *Wallis v. Pan Am. Petroleum Corp.*, 384 U.S. 63, 69 n.6 (1966) (Section 184(h) protects the rights of bona fide purchasers “if the Secretary seeks to cancel a lease for violations of the Act”).

The BLM's authority is discussed in multiple places in the Final EIS (e.g., E-84, E-85, E-99, E-127, E-179; E-181 and E-184). Section 1.2 of the Final EIS was revised in response to comments. The revised section is as follows:

The BLM has the authority to cancel a lease if it was improperly issued (43 CFR § 3108.3(d)). The Secretary of the Interior has inherent authority, under her general managerial power over public lands, to cancel leases issued in violation of a statute or regulation. That authority is not superseded by the Mineral Leasing Act (MLA). That

authority is reflected in MLA's implementing regulations. Under this authority, BLM may cancel leases if they were issued in violation of NEPA or other laws. The IBLA has characterized as "void" and "a legal nullity" any lease issued for lands that were not legally available for leasing at the time they were issued. In contrast, it has characterized as "voidable" any lease issued in violation of a procedural requirements, such as NEPA, which does not compel any particular decision. In other words, a void lease is one that suffers from a substantive defect that BLM cannot cure, such as including lands that were not available for BLM to lease at the time they were issued. A voidable, cancelable lease is one that suffers from a procedural defect that BLM may be able to correct at its discretion with further action on its part.

Section 9.2 of the ROD (Final EIS Corrections) clarifies that the responses to comments on pages E-84, E-85, E-99, E-127, E-179; E-181 and E-184 should have contained a reference to the revised text in the Final EIS.

8. EarthJustice (NGO)

EarthJustice's comment letter on behalf of Wilderness Workshop, the Sierra Club, Rocky Mountain Wild, Center for Biological Diversity, Natural Resources Defense Council, The Wilderness Society, Conservation Colorado, Great Old Broads for Wilderness, EcoFlight, High Country Conservation Advocates, Citizens for a Healthy Community, San Juan Citizens Alliance, Western Colorado Congress and WildEarth Guardians supported BLM's proposal to cancel 25 leases but requested either cancellation or, at a minimum, application of Alternative 4 stipulations of the remaining leases. The comment letter also included information regarding the legal framework for eliminating leases from Orchard, Place Mesa, Willow Creek and Middleton Units. Comments are not included or responded to in this document because unit decisions and specific unit and lease administrative actions are outside the scope of the BLM's decision. As noted in Section 4, the Middleton Creek Unit was automatically contracted in a separate action and leases COC 067147, COC 070013, and COC 070361 are now considered undeveloped and are thus offered modified lease terms. New substantive comments are included below.

EarthJustice Comment No. 1: "...several of the cancelled leases were improperly issued in violation of 16 U.S.C § 497c(j), which withdraws all lands within the boundaries of ski area permits from mineral leasing."

BLM Response: The BLM EIS considers whether to reaffirm, modify, or cancel each of the leases in question. The BLM decision cancels the leases in question.

EarthJustice Comment No. 2: "...the FEIS maintains the same dismissive view of Alternative 5 that BLM took in its draft EIS, stating that the alternative is included in the EIS primarily to facilitate a full range of analysis (FEIS at 2-64). This approach wrongly biases BLM's process toward an outcome that will harm the Conservation Groups and many members of the public by leaving in place dozens of improperly-issued leases....The fundamental purpose of the NEPA analysis is to reconsider BLM's earlier decision to issue the leases. NEPA requires consideration of alternatives, and the reasonably foreseeable impacts of the leases, before leasing occurs. BLM's dismissal of Alternative 5 turns that analysis on its head and improperly allows the existence of these void leases to drive its new decision."

BLM Response: As stated on page 2-24 of the Final EIS, Alternative 5 was included to facilitate a full range of analysis from continuing the existing leases with their current stipulations (Alternative 1) to considering a scenario as close to not having issued leases (following the WRNF 1993 ROD) as is feasible today (Alternative 5). This allowed the BLM to consider cancellation of any and all leases to address resource concerns. The statement is not meant to not imply that the Alternative 5 is considered "non-selectable" or included only for an analysis of pre-1993 conditions.

Further, the Final EIS is clear in stating BLM's authority to cancel improperly issued leases (see Section 1.2). The Final EIS also clearly states that per regulation, BLM must initiate a judicial process in order to pursue the cancellation of leases that are producing or committed to a unit or other agreement (see Sections 2.3.3 and 2.3.5).

EarthJustice Comment No. 3: Alternative 5 is the right choice for other reasons as well. As noted by the more than 50,500 public comments on the DEIS that called for cancelling all 65 leases, the area covered by those leases has exceptional natural values that are not compatible with oil and gas development. In addition to tens of thousands of roadless acres, the leases cover the East Willow Area, the Lower Battlement Research Natural Area, Mamm Peak and important habitat for a variety of species and plants. Given the value of these lands, BLM should acknowledge that the leases were void ab initio, cancel them, and start with a clean slate. Doing so will have a negligible impact on regional oil and gas production because fewer than ten percent of the leases (only 5 out of 65) are currently producing. The lack of production is particularly striking given that the large majority of the leases (57) are already past their ten-year lease term, and seven are due to expire by the end of 2017. Dozens of the leases, in fact, should already have expired but for suspensions of operation and production granted by BLM as part of this NEPA process. Clearly, the companies holding these improperly-issued leases are in no hurry to bring them into production. The FEIS confirms how small the impact of cancelling the leases will be. The Socio- economics section predicts that cancelling all the leases will reduce annual natural gas production in the four-county region (Garfield, Mesa, Rio Blanco and Pitkin Counties) by only about two percent. This minimal impact on production is far outweighed by the longer-term benefit of preserving these lands for future generations. The FEIS also overstates the logistical difficulty of voiding all 65 leases. For example, it states that all producing wells would have to be plugged and abandoned, infrastructure would be removed, roads, well pads, and other ancillary facilities would be reclaimed, and all disturbed areas would be revegetated. These tasks, however, will not be required for 90% of the leases at issue. As noted, only five of the 65 leases are held by production. FEIS at 1-5 to 1-6 (Table 1-1) (leases COC 61121, COC 66724, COC 66918, COC 66920, COC 67544 held by production). Many of those well pads, moreover, are located outside the lease boundaries and are being used to access other minerals, meaning the pad and other infrastructure can still be used even if the federal lease is cancelled. See FEIS at 2-67 (Figure 2-14).

BLM Response: The impacts of cancelling leases on wildlife, roadless areas, socioeconomic and other resources are disclosed in the EIS. The rationale for the Preferred Alternative is outlined on page 2-88 of the Final EIS. Challenges associated with removing any equipment or infrastructure is only one of the economic impacts and technical challenges identified. The impacts analysis for Alternative 5 identified the number of wells and wellpads that would be removed (75 wells on 16 well pads for a total 86 acres of surface disturbance).

EarthJustice Comment No. 4: “The Preferred Alternative is also arbitrary and capricious and contrary to law because it reaffirms most of the 40 non-cancelled leases in violation of the Forest Service Roadless Rule....The Preferred Alternative is contrary to law because for the leases subject to Alternative 2, it fails to require compliance with the Forest Service Roadless Rule. While these leases were erroneously issued without roadless stipulations, the Roadless Rule is an applicable legal requirement for them. The Preferred Alternative inexplicably repeats the same mistake BLM made when it issued these leases during the last administration.

Numerous leases were erroneously issued without attaching stipulations requiring compliance with the Forest Service's 2001 Roadless Rule. The FEIS states that 54 of the 65 leases, and most of the total acreage in the four zones, lie within Colorado Roadless Areas. But while almost all of those roadless leases were issued after adoption of the Forest Service's Roadless Rule, they generally lack stipulations or lease notices requiring compliance with that rule.

The Forest Service has acknowledged that during much of the relevant time period, it assumed (incorrectly) the 2001 Roadless Rule did not apply because it was embroiled in litigation. The Forest

Service's 2015 Oil and Gas Leasing EIS (OGLEIS) explains that for several years beginning in 2001, different court opinions left the Forest Service with varying interpretations as to what rules and direction is to be applied with regard to Roadless. During this time the WRNF relied on Forest Plan direction.

Unfortunately, the existing Forest Plan direction did not account for the Roadless Rule. At that time, the White River National Forest was operating under a 1993 oil and gas leasing EIS, which had been issued eight years before promulgation of the 2001 Roadless Rule. Further, when the Forest Service incorporated its 1993 oil and gas leasing decision in a 2002 forest plan revision, the agency assumed (incorrectly) that the Roadless Rule did not apply. The Forest Service's disregard of the Roadless Rule was an error. Most of the leases missing roadless stipulations were sold during a period in late 2002 and 2003 (Dec. 12, 2002–July 14, 2003) when the Roadless Rule was not enjoined by any court order and was indisputably in effect. The failure to attach stipulations or lease notices to these leases was plainly a mistake. Moreover, while some leases were issued during periods when the Roadless Rule was subject to an injunction, that injunction was subsequently vacated as moot. For all these leases, the failure to require lease notices or stipulations addressing Roadless Rule compliance was improper. For example, Forest Service regulations mandate that all "appropriate stipulations . . . necessary to implement the forest plan, and to comply with other laws, must be included in the lease. BLM also noted in the preamble to its operating regulations that all other applicable laws must be complied with and are generally cited as stipulations to the lease.

A notice or stipulation expressly referencing the Roadless Rule is necessary because it ensures that the rule will be implemented when the lessee proposes development on the lease. BLM and the Forest Service routinely attach lease stipulations or notices where certain areas of a lease are subject to requirements for protection of specific natural resources such as wetlands, big game winter range, landslide-prone areas, steep slopes, areas of critical environmental concern, and habitat for endangered or threatened species. Roadless areas are no different. A lease notice or stipulation expressly referencing the Roadless Rule is necessary to ensure that its requirements are not overlooked during the development phase.

BLM and the Forest Service have themselves recognized this necessity. A handful of the leases addressed in the FEIS (which were issued in 2007) have Roadless Rule stipulations because BLM added them in response to a protest filed by Wilderness Workshop and other groups. See FEIS at 1-6 (Table 1-1) (listing issuance dates of leases), 2-4 (Table 2-1) (table of stipulations). While the Roadless Rule litigation remained pending at the time the leases were issued, the agency did not deny stipulations were necessary. Instead, BLM attached stipulations that provided for compliance with the rule. Similarly, when issuing leases elsewhere in Colorado, BLM attached a lease notice regarding the Roadless Rule.

BLM ... must ensure that the Forest Service's Roadless Rule is applied to any leases it does not cancel.....The Preferred Alternative does not satisfy this requirement: for numerous leases, it fails to add any stipulations or lease notices for roadless areas expressly requiring compliance with the 2001 Roadless Rule. As a result, the Preferred Alternative is not in accordance with law. Because the Preferred Alternative is inconsistent with the Roadless Rule, it also fails to comply with FLPMA's requirement to prevent unnecessary or undue degradation of the public lands. BLM's treatment of the Roadless Rule fails to comply with NEPA and is arbitrary and capricious. Council on Environmental Quality regulations require that BLM explain how the alternatives considered in [the EIS] and decisions based on it will or will not achieve the requirements of [NEPA] and other environmental laws and policies. The FEIS states that the 2012 Colorado Roadless Rule's applicability is still legally unresolved. Rather than addressing how the Roadless Rules apply to its decision, however, BLM leaves the issue to the Forest Service. This approach fails to explain how compliance with the 2001 Roadless Rule, and the Colorado Rule, will be achieved under the Preferred Alternative. BLM's assertion that this is simply the Forest Service's responsibility does not satisfy NEPA."

BLM Response: BLM's Preferred Alternative and decision do not authorize any lease development or surface disturbing activities (see Sections ES.5.2, and 1.5.2), and therefore do not cause unnecessary or undue degradation of the public lands. As noted in Section 1.5.2, 2.7.1.1 and elsewhere, the USFS is responsible for site-specific analysis and approvals of future proposed surface use and development on the leaseholds. Under both the Preferred Alternative and decision the USFS will determine measures to implement any applicable roadless rule requirements through the Surface Use Plan of Operations (SUPO) process, ensuring consistency with the applicable roadless rule. As noted on page E-182: Paragraph 3 of the standard lease form states that leases are subject to existing laws, among other requirements. As such, a specific lease notice is not necessary.

EarthJustice Comment No. 5: Some lessees' DEIS comments assert that their leases are not subject to the 2012 Colorado Roadless Rule (the Colorado Rule). This argument is misplaced because the leases are subject to both the 2001 Roadless Rule, and the 2012 Colorado Rule. The 2012 Colorado Rule preserves any existing limitations on surface development rights arising from lease terms, lease stipulations and other documents. Moreover, the Colorado Rule requires protections similar to those in the nationwide 2001 Rule. Because the 2012 Colorado Rule is not inconsistent with the rights granted in leases that were already limited by the 2001 Rule, the lessees must comply with the 2012 Colorado Rule as well. See BLM Lease Form 3100-11; Forest Service Manual 2822.42 (standard stipulation requiring compliance with all Forest Service rules unless inconsistent with rights granted by BLM in lease).

BLM Response: See Response to EarthJustice Comment No. 3.

EarthJustice Comment No. 6: "The Preferred Alternative is also arbitrary and capricious and contrary to law because it reaffirms most of the 40 non-cancelled leases... without conforming with the Forest Plan....In its current Forest Plan, the Forest Service has determined what lease stipulations are necessary and appropriate for oil and gas development. By dropping protections for 27 leases that were included in the DEIS proposed action (Alternative 4), the Preferred Alternative is inconsistent with the Forest Plan and contrary to several laws.

FLPMA requires that BLM coordinate its management with the land use planning and management programs of other Federal departments and agencies so long as doing so is consistent with the laws governing the administration of public lands. Similarly, the 2005 Energy Policy Act requires BLM and the Forest Service to ensure that...lease stipulations are coordinated between agencies.... Section 101(b) of NEPA imposes a continuing responsibility on federal agencies to use all practicable means... [to] coordinate Federal plans, functions, programs, and resources to protect the environment and preserve natural resources. The Preferred Alternative fails to comply with these requirements.

Moreover, in the OGLEIS, the Forest Service determined (pursuant to the 2005 Energy Policy Act) that the requirements and restrictions being imposed on oil and gas leasing were the minimum limits necessary for protection of the resources in question. BLM is relying on that same OGLEIS in its own analysis.... Given that reliance, selecting the Preferred Alternative would be arbitrary and capricious because it disregards the Forest Service's conclusions and reaffirms the leases with terms that the Forest Service has determined are inadequate to protect the resources of this area. Such a decision also would violate FLPMA's requirement to prevent unnecessary or undue degradation of these lands.

Further, BLM regulations require that in issuing leases on lands where the surface is managed by a different agency, BLM shall accept all reasonable recommendations of the surface managing agency.

BLM Response: As stated on page 2-95, the Preferred Alternative would be consistent with either the 2002 Land and Resource Management Plan (LRMP) or the 2015 ROD, depending on the development status and location within the leasing area under evaluation. Consistency with

the 2015 ROD is not required because that decision did not address decisions on existing leasing (see page 4 of the 2015 ROD which states: *“This decision is valid for future leasing and does not change the status of existing leases on the White River National Forest,”* and, on page 8, *“Therefore, the authority lies with the BLM for the 65 existing leases. It is under their purview to decide whether to continue the leases, continue the leases but change the terms, or terminate them. Only the BLM has the authority to choose whether to continue the leases and change the terms (one option being the stipulations as specified in this decision). Should the BLM decide to cancel the 65 leases, then and only then will these lands be subject to availability and terms under this decision.”*

The Forest Service was a cooperating agency in preparation of the EIS and has recently confirmed that BLM’s decision is consistent with the Forest Service’s prior consent to lease (see also Response to EarthJustice Comment No. 7). As explained in the Final EIS, for all undeveloped leases that are not held by production, the BLM will be attaching stipulations consistent with the USFS 2015 ROD.

EarthJustice Comment No. 7: BLM’s Preferred Alternative is arbitrary and capricious and contrary to law because it fails to comply FOOGLRA. Obtaining valid Forest Service consent under FOOGLRA provides a mechanism to ensure compliance with the Roadless Rule and the Forest Plan, as well as other legal requirements. But because of the errors made when the leases were issued, supra pp. 6-9, there has never been valid Forest Service consent to lease these lands. BLM cannot rely on the existing consent, which is outdated and legally invalid, to issue a new decision ratifying these leases. Instead, it must obtain updated and valid consent from the Forest Service for leases that are not cancelled.

Getting legally sufficient FOOGLRA consent is especially important because the Preferred Alternative departs substantially from the management decisions in the Forest Service’s 2015 OGLEIS and ROD. In addition to ensuring that leases comply with the law, the FOOGLRA consent process requires a Forest Service determination of whether significant new information requires additional environmental analysis. If such new information exists, or the existing NEPA analysis is inadequate, new analysis is required before the Forest Service consents to leasing. The Forest Service may conclude that BLM departures from the OGLEIS justify additional site-specific analysis of certain issues before decisions are made to reaffirm, modify or cancel particular leases.

BLM and the Forest Service both acknowledge that the NEPA analysis under which the leases were initially issued—the 1993 Oil and Gas Leasing EIS for the White River National Forest—is totally outdated and inadequate to support decisions on the 65 leases. BLM, in fact, seeks to rely substantially on the new Forest Service OGLEIS rather than the 1993 version. Given the consensus that significant new information exists and that the 1993 EIS does not adequately address current conditions, it would be arbitrary and capricious for BLM to rely on a flawed Forest Service consent that was based on that same 1993 EIS.

FOOGLRA, moreover, requires more than just ensuring compliance with applicable laws and considering new information. FOOGLRA also requires BLM to abide by the Forest Service’s choices about whether lands may be leased and under what conditions. Even if leasing in certain roadless areas is allowed under the 1993 EIS or the 2015 OGLEIS, it is not required. The Forest Service may determine based on the new information available today that leasing specific roadless or other lands is not appropriate despite being permitted under the Forest Plan. “

BLM Response: As stated in Section 1.1 of the Final EIS, The decision that made the 65 parcels considered in this EIS available for oil and gas leasing was documented through the 1993 WRNF Oil and Gas Leasing ROD and reaffirmed in the 2002 WRNF LRMP. Before offering the nominated parcels in an oil and gas lease sale, the BLM obtained consent from the Forest Service and subsequently issued the leases.

As noted in Section 7 of the ROD, the Forest Service confirmed that the BLM decision to modify, reaffirm, or cancel the 65 previously issued leases as outlined in the ROD is consistent with the Forest Service's prior consent to lease.

EarthJustice Comment No. 8: "The Preferred Alternative would reaffirm the 27 leases with virtually no change on the basis that they are held by production. According to the FEIS, modification or cancellation of these leases would result in considerable adverse economic impacts and technical challenges, including loss of future production, and costs associated with plugging, abandoning and reclaiming wells. This decision would be arbitrary and capricious because in reality, at least 20 of the 27 leases are not producing and have never actually been drilled. As a result, cancelling these leases (if the lessee refused to accept new stipulations required under Alternative 4) would not require removing any equipment or infrastructure. Nor would requiring Alternative 4 stipulations adversely affect future oil and gas production: BLM's FEIS predicts that in Zones 1, 2 and 4, future production will be the same under Alternative 4 and the Preferred Alternative. For the 27 leases, FEIS Alternative 4 is well within BLM's authority to implement. BLM also has ample authority to cancel these leases, either administratively or through a court order. The Preferred Alternative is also arbitrary and capricious as applied to specific unitized leases. In particular, 21 of the 27 reaffirmed leases are (or were) committed to four units: Encana's Middleton Creek, Orchard, and Place Mesa units, and WillSource's Willow Creek unit. The Preferred Alternative is arbitrary and capricious for these leases because these leases already have been, should already have been, or soon will be, eliminated from the units. BLM's plan to reaffirm these leases based on their unitized status, while eliminating them from those units, is circular and the very definition of arbitrary and capricious."

BLM Response: As outlined on page 2-88 the challenges associated with removing any equipment or infrastructure is only one of the economic impacts and technical challenges identified. The impacts analysis for Alternative 5 included the number of wells and wellpads that would be removed (75 wells on 16 well pads for a total 86 acres of surface disturbance, see Section 2.7 of the Final EIS.) Page E-269 of the Final EIS provides additional information regarding the economic impact of lease cancellation.

Per guidance supplies in BLM Handbook H-3180-1 - Unitization (Exploratory), "approval of the initial participating area causes the unit to **convert to a producing status**, and all subsequent unit wells and operations must conform to an approved plan of development and operations".

Per 43 CFR 3107.3-1, any lease or portion of a lease, except as described in 3107.3-3 of this title, committed to a cooperative or unit plan that contains a general provision for allocation of oil or gas shall continue in effect so long as the lease or portion thereof remains subject to the plan; provided that there is production of oil or gas in paying quantities under the plan prior to the expiration date of such lease.

This regulation causes all leases within a producing unit to be in non-terminable rental status even if they do not have actual or allocated production on the lease. The leases in non-terminable rental status will not expire or terminate for nonpayment of rental.

BLM Handbook 3108-1 also states if the lease contains a well capable of production of oil or gas in paying quantities, or if the lease is committed to an approved cooperative or unit plan or communitization agreement that contains a well capable of production of unitized substances in paying quantities, it may be cancelled only by judicial proceedings in accordance with the provisions of Section 31(a) of the MLA (30 U.S.C. 188(a). The judicial action must be taken in a Federal district court for the district in which the lands are located. The reference in H-3108-1 is consistent with the statement in 43 CFR 3108.3(b) regarding lease cancellation.

Moreover, as disclosed in Section 1.5 of the Final EIS, the decision to be made by the BLM is whether the 65 existing leases should be: 1) Reaffirmed with their current existing stipulations;

2) Modified with additional or different lease stipulations or additional mitigation measures; or 3) Cancelled. Unit contractions are outside the scope of the decision.

The BLM's decision is based on the current regulatory status of the lease. It would be arbitrary to base this decision on future lease status decisions that may or may not occur, or to select an arbitrary future "cutoff date" to start or stop treating leases differently than as per their current regulatory status. The decision does take into account recent unit contractions; as noted in Section 4 of the ROD, the Middleton Creek Unit was automatically contracted in a separate action and leases COC 067147, COC 070013, and COC 070361 are now considered undeveloped and are thus offered modified lease terms. It also makes allowance for the pending appeals of those unit decisions.

EarthJustice Comment No. 9: Throughout the Orchard Unit's 14-year history, Encana has consistently missed deadlines only to be granted extension after extension. And Encana has never drilled any wells on the leases at issue in this NEPA process, or demonstrated the intent or ability to do so. Under BLM's procedures and regulations, the leases at issue should have been eliminated from the unit no later than March 18, 2014, ten years after the paying well determination's effective date. BLM's serial extensions of unit deadlines are contrary to law and arbitrary and capricious. BLM cannot compound these prior errors by using the unitized status of these leases—which should already have terminated—to justify reaffirming them without adequate stipulations. The purpose of the 2014 suspension was to accommodate BLM's review process, not to drive the outcome of that review. The Preferred Alternative turns this analysis on its head: leases that would have been terminated from the Orchard Unit but for the NEPA process will not have additional stipulations added because they remain committed to units or agreements that are producing....Courts have recognized exactly this sort of circular reasoning, as arbitrary and capricious in violation of NEPA.

BLM Response: See response to EarthJustice Comment No. 8. Unit decisions and specific unit and lease administrative actions are outside the scope of the BLM's decision. The decisions in the ROD are based on the current regulatory status of the leases in question. It would be arbitrary to base this decision on future lease status decisions that may or may not occur, or to select an arbitrary future "cutoff date" to start or stop treating leases differently than as per their current regulatory status.

EarthJustice Comment No. 10: "There also is no evidence in the record that Encana intends to drill a well outside the Place Mesa Unit's Initial Participating Area in the brief period between now and December 2016. Encana's lack of any drilling plans is even more apparent because the company has no Colorado state drilling permits for such wells. Thus, the three leases at issue in this NEPA process will terminate from the unit only a few weeks after BLM's expected decision. It would be arbitrary and capricious to reaffirm these leases on the ground that they are unitized, when that status will end almost immediately after BLM's decision."

BLM Response: See response to EarthJustice Comment No. 8. Unit decisions and specific unit and lease administrative actions are outside the scope of the BLM's decision. The decision is based on the current regulatory status of the lease. It would be arbitrary to base this decision on future lease status decisions that may or may not occur, or to select an arbitrary future "cutoff date" to start or stop treating leases differently than as per their current regulatory status. Moreover, reaffirming or modifying the leases does not extend the term. As a result, the BLM did not believe any response to this comment was necessary.

EarthJustice Comment No. 11: "The Willow Creek Unit in the Thompson Divide (Zone 3) included seven leases. Six leases (COC58835, COC58836, COC58837, COC58838, COC58840, COC58841) were issued twenty years ago, in 1996, and held by WillSource Enterprise, LLC (WillSource). The seventh lease (COC66913) was issued in 2003 and held by Encana. All of

these leases have stipulations that are grossly inadequate to protect natural resource values in the Willow Creek area. See DEIS Comments at 36–39. Moreover, the leases have been extended long past their ten-year lease term without any production. As outlined below, these leases should already have expired and BLM should confirm that they are terminated. At the very least, BLM must apply the Alternative 4 stipulations necessary to protect environmental values on these lands. It would be arbitrary and capricious for BLM to reaffirm these leases on the theory that they are producing.”

BLM Response: See response to EarthJustice Comment Nos. 8 and 9. Leases COC 58835, COC 58840, COC 58841 and COC 66913 expired due to a unit contraction that is currently under appeal to the IBLA. As a result of the appeal and as explained in the ROD, the BLM’s decision for these three leases is provisional: the leases would only be reaffirmed should the Willow Creek Unit contraction be overturned; these leases have already expired per their terms.

EarthJustice Comment No. 12: “The Willow Creek unit, however, automatically terminated years ago. BLM’s contrary view and its resulting reaffirmation of the three leases without new stipulations is arbitrary and capricious and contrary to law.”

BLM Response: See response to EarthJustice Comment No. 11.

EarthJustice Comment No. 13: “Three of the leases classified in the FEIS as committed to Middleton Creek Unit, and most of the fourth lease, have been eliminated from the unit for more than a year. The FEIS’s statement that those leases are committed to the Middleton Creek Unit is demonstrably false. It would be arbitrary and capricious for BLM to reaffirm these leases under the Preferred Alternative, given that they are not committed to the Middleton Creek Unit. See *Mo. Serv. Comm’n v. Fed. Energy Regulatory Comm’n*, 337 F.3d 1066, 1075 (D.C. Cir. 2003) (Reliance on facts that an agency knows are false at the time it relies on them is the essence of arbitrary and capricious decisionmaking.”

BLM Response: See response to EarthJustice Comment Nos. 8 and 9. As noted in Section 4 of the ROD, the Middleton Creek Unit was automatically contracted in a separate action and leases COC 067147, COC 070013, and COC 070361 are now considered undeveloped and are thus being offered modified lease terms consistent with the approach to undeveloped leases in the BLM’s Preferred Alternative.

EarthJustice Comment No. 14: “The Groundhog Gulch Unit includes three leases at issue in this NEPA process: COC 66915, 66916, and 66917. FEIS at 1-5. The FEIS treats them as automatically extended upon unit termination until November 11, 2016. *Id.* But this is incorrect: the leases should have expired as scheduled in 2013. Alternatively, even factoring in the improper extension, these leases are set to expire on November 11, 2016— a date shortly after BLM is expected to complete this NEPA process. It is arbitrary and capricious for BLM to ignore the pertinent data that the leases will expire so soon after this NEPA process is completed. See *Coal on W. Valley Nuclear Wastes*, 592 F.3d at 310.

BLM Response: See response to EarthJustice Comment Nos. 8 and 9. The leases identified by the commenter are getting offered modified lease terms as outlined in the BLM’s ROD.

Form Letters

The BLM received 60,801 form letters during the Final EIS availability period. The text of these submissions could be grouped into 7 distinct form letters. All but one form letter requested either cancellation of all leases or application of the more stringent protections on the leases that are not cancelled. The remaining form

letter supported BLM's decision to cancel 25 leases in the Thompson Divide. Many of the form letters included unique comments added to the standard form letter text ("form-plus" content). Non-substantive "plus" text generally comprised personal contact information or additional non-substantive text thanking BLM for cancelling 25 leases, expressing concern about the remaining leases, and requesting cancellation of all leases. Other "plus" text expressed concern about climate change, impacts to a variety of resources on the WRNF, or made accusations that the agency had caved to special-interest pressure. Out-of- scope comments generally included suggestions that BLM "keep it in the ground", discontinue oil and gas leasing on federal lands, pursue alternative/sustainable energy sources or take other actions out of the scope of the BLM's decision. One comment thanked the BLM for holding a very thorough process that allowed for public comment and a comprehensive look at the impacts of oil and gas drilling and suggested that this should be done with every oil and gas lease.

There were several substantive comments that questioned the rationale of cancelling 25 leases because they were "illegally issued" while retaining 27 leases that were also "illegally issued". One comment stated that the Social Costs of Carbon (SCC) were not considered in the analysis and, that in light of the court's recent decision regarding the need to consider SCC, the BLM should reconsider its plan to validate 27 of the illegal leases without adding protections. Another comment asserted that agency is failing to protect aquifers.

BLM Response: As stated in Section 1.4 of the Final EIS, one of the BLM's need for this federal leasing action is to address the NEPA deficiency identified by the 2007 IBLA ruling on the appeal by the Board of Commissioners of Pitkin County that BLM must formally adopt NEPA analysis completed by the Forest Service or conduct a NEPA analysis of its own for issuance of oil and gas leases underlying WRNF lands. The BLM is not overlooking the NEPA "deficiency" by reaffirming producing / committed leases: the completed EIS process addresses the NEPA deficiency and the decision considers the effects of leasing on the human environment per regulations at 43 CFR Part 46 and CEQ requirements. The BLM's decision does apply different solutions to various leases based upon the EIS analysis. The rationale for those solutions is described in Section 2.3.6.1 of the Final EIS. See also response to Trades Comment No. 2 regarding NEPA deficiency.

The EIS contains an analysis of the impacts of the resources identified in comments. The BLM evaluated those impacts in their decision. See Section 2.3.61 for rationale regarding the Preferred Alternative. It is important to note that BLM's Preferred Alternative and decision do not authorize any lease development or surface disturbing activities (see Sections ES.5.2 and 1.5.2). See response to EPA Comment No. 4 regarding the analysis of climate change. See response to EPA Comment No. 7 regarding appropriate resource protections protection that may be imposed after site-specific analysis to protect aquifers and other groundwater resources. See response to EPA Comment No.5 regarding SCC.

See Section 1.5 and also the response to Draft EIS comments on page E-13 of the Final EIS regarding the scope of BLM's decision. While the outreach process for future leasing sales is out of the scope of this decision, the BLM is aware of the request for public comment opportunities as part of future lease sales.

