

FAX # 505-954-2010

TO: AMY LUEDERS, BUREAU OF LAND MANAGEMENT

FROM: LARRY D. SHELTON/ TEXAS CONSERVATION ALLIANCE

RE: LETTER OF PROTEST

APRIL 20, 2016 OIL AND GAS LEASE SALE AND EA

DOI-BLM-NM-040-2015-61-EA

12 PAGES, INCLUDING COVER SHEET

2-17-16

Amy Lueders
Bureau of Land Management
New Mexico State Office
P.O. Box 27115
Santa Fe NM 87502-0115

Re: Protest of April 20, 2016 minerals Lease Sale

Dear Ms. Lueders

The following is a formal **Letter of Protest** of the Bureau of Land Management (BLM) planned oil and gas lease sale and Environmental Assessment DOI-BLM-NM-2015-61-EA, pursuant to 43 CFR SS 3120.1-3.

This Protest includes the following parcels in Texas:

NM-201604-012 through NM-201604-043, inclusive.

PROTEST

I, Larry D. Shelton am filing this Protest on behalf of:

Texas Conservation Alliance (TCA)

15449 FM 1878

Nacogdoches, TX 75961

936-462-8848

larryosageshelton@yahoo.com

I have been duly authorized by TCA to represent the organization in this Letter of Protest.

TCA is a non-profit conservation organization with 1,000 members, and member organizations totaling 40,000 more, that has been engaged in environmental quality issues since 1968. TCA has been involved in issues related to the management of the National Forests and Grasslands in Texas (NFGT) during this time and has specifically engaged in collaborative project development on the NFGT since 2006.

Additionally, TCA member Larry D. Shelton has represented the organization on the Resource Advisory Committee (RAC) for the Davy Crockett National Forest (DCNF) since 2007.

RATIONALE FOR PROTEST OF THE PROPOSED LEASE SALE

NFGT Lands

Insufficient opportunities for public input-

Whereas the proposed lease and subsequent minerals development would involve the surface of NFGT, and the US Forest Service (FS) is responsible for both identifying potential resource impacts and protecting NFGT resources, then NFGT administrative mandates and protocols should be applicable. The FS maintains a mailing list of persons and organizations that are interested in NF management, whereby scoping letters can be sent to solicit public comments for proposed NFGT projects. In spite of its long-time involvement with NFGT management issues and being on the "mailing list", TCA received no notification of the proposed minerals lease. Nor was the proposed project listed on the website for the NFGT. Apparently, the sole effort made by the BLM to solicit public input for the project was to list it on its own website. **The BLM was remiss in its obligations to solicit public comments by failing to utilize the FS list of interested parties or conduct ANY local public outreach aimed at soliciting local input.**

BLM made no efforts at public collaboration for the Lease proposal-

~~A Resource Advisory Committee has been in place on the DCNF since 2007. It is a good idea~~ Collaboration is a mandate and the RAC is the primary collaborative body for all management projects proposed for the DCNF. The BLM made no effort to notify the RAC of the lease proposal, solicit input or collaborate in any way. The BLM was remiss in its obligation to collaborate with the RAC for the DCNF.

Insufficient Environmental Review

The 1996 Land and Resource Management Plan (LRMP) requires that an environmental review be conducted of each area proposed for minerals lease to identify any special needs or protection requirements (Forest wide standard 101). The BLM relied heavily on information from the Environmental Impact Statement (EIS) associated with the 1996 LRMP for their EA. The information in the EIS is outdated and does not meet a reasonable standard for utilization of current information. A FS interdisciplinary team (ID) was assembled to provide additional information to supplement that contained in the outdated 1996 LRMP. There is no evidence that the ID team conducted any site specific investigations of the proposed NF lease lands in order to determine if special protections were required. Although the FS ID team apparently provided some general stipulations and surface occupancy restrictions to the BLM for the EA, the ID team's efforts were not comprehensive.

The FS ID team is responsible for determining if any "...new information has become available which might change any analysis conducted during the planning process..." (BLM EA pg. 3). TCA has proposed that a Special Management Area (SMA) called the Piney Creek Conservation Corridor (PCCC) be designated in the upcoming Revision of the LRMP. The Supervisor's Office for NFGT (SO) was notified of

this proposal as early as 2008 and a field tour of a portion of PCCC was conducted on March 27, 2012. TCA requested that no management disturbances be allowed in the SMA proposal until the issue was addressed in the upcoming Revision of the LRMP. A copy of the PCCC proposal letter and the field trip description are attached to this Protest. Areas within TCA's PCCC SMA proposal that were listed for BLM leasing include NM-201604-032, 033 and 034 (FS administrative compartments 92, 93, 94 DCNF). The PCCC proposal is definitely "new information" and was clearly a part of the administrative record but was not mentioned in the BLM's EA. The BLM's EA is remiss in its omission of the PCCC SMA proposal and therefore lacks specified protection as required in the LRMP for sensitive resources. The Revised Planning Rule requires the FS to use the best available information and science in managing the NFGT. The use of outdated information from the 1996 LRMP, lack of specificity and the omission of warranted protection for identified sensitive areas (PCCC) all call into question the integrity of the EA for this lease proposal.

No analysis for long term habitat needs for the RCW-

The red-cockaded woodpecker (RCW) is a federally endangered species occurring on the NFs in TX (NFT). The current NFT RCW populations are far below the target numbers set for a "recovered" population as mandated in the US Fish and Wildlife RCW Recovery Plan. The stipulations in the BLM EA only provide protection for **currently occupied** clusters and foraging areas. A **fully recovered** RCW population will require a much larger area of mature forest habitat. It is questionable as to whether there is currently enough suitable acreage within the Habitat Management Areas on the NFT to support a fully recovered RCW population. Minerals development will result in the clearing of forest areas for drill pads, roads and pipelines. **It is essential to conduct a comprehensive analysis of the future habitat needs for a fully recovered RCW population on NFT before any more forested areas are cleared for non-forest uses.** The analysis should consider gross acreage needed and future demographics.

Lack of objective economic analysis-

Page 69 discusses socioeconomics. The economic assertions in the EA are incomplete and biased. This section makes assumptions that are not supported by the data. The EA assumes that the proposed minerals development would provide economic benefits without harming lower income demographics. There is currently a severe global oversupply of oil and natural gas that has resulted in a major depression of prices for these resources. The production of federal minerals would in fact be in direct competition with other individuals seeking to produce their own privately owned minerals. Since federal mineral leases are developed through the use of taxpayer dollars, this can lead to unfair competition with other private land and mineral owners.

The current oversupply of oil and gas has directly caused a suppression of prices. It could be argued that the development and production of federal minerals would further exacerbate the oversupply situation, drive down prices further and cause greater financial hardship for private individuals seeking to develop their own minerals. Thousands of individuals have lost their jobs as a result of oversupply; this lease proposal could lead to further unemployment due to perpetuation of oversupply.

Offering federal minerals at this time of low prices for oil and gas would likely lead to low sale prices for

Based on current market conditions, chances are high that a well-financed company will purchase the lease for a relatively low price and then wait for prices to rise before producing the minerals. This gives an advantage to the wealthier producers that have the financial resources to buy the lease and then wait a number of years for the price of oil to rebound before initiating production. On the other hand, producers without substantial financial reserves would not be able to pay for the lease and then wait a number of years before seeing a return on their investment. This would hurt smaller producers and locals that depend on private minerals development.

The EA provides no meaningful discussion of potential economic impacts from sale of the lease.

Incomplete information on effects on available water quantity-

Page 58 addresses impacts to available subsurface water quantities. While it is impossible to precisely determine the effects on available water quantity from minerals development, the EA could provide a better idea of what information is known relative to current consumption and availability. For example, large scale groundwater pumping above a particular quantity requires a permit and approval from the State of Texas. Permit applications have been filed for pumping as much as 40,000 acre/feet of groundwater annually from Houston and Trinity Counties. The EA contains no analysis of existing usage, permits for large scale pumping or overall capacity to give resource managers or the public any idea of what constitutes sustainable groundwater usage and whether the aquifer can support the proposed mineral development. The EA states that groundwater resources would eventually recharge following accelerated depletion from minerals development but this is not a meaningful statement. It is not based on any reliable data. Drought and low rainfall have been the norm for much of the past ten years in Texas; how can the EA reliably predict when and if the aquifers will recharge?

The lease is premature...

The NFGT is currently in the process of revising the LRMP; the first step will be to perform an inventory of NFGT resources and gather other relevant information. Leasing of NFGT minerals at this time is premature since the information used in the BLM EA is largely based on outdated sources. By waiting until the revision of the LRMP for NFGT is complete to initiate new minerals leasing, the BLM will have current information to work with.

SUMMARY OF PROTEST

The BLM failed to make use of existing NFGT scoping lists to adequately publicize the proposed leases and solicit public comments. Use of these mailing lists is routine for NFGT projects.

The BLM did not carry out any public collaboration, even when Resource Advisory Committees were in place for the NFGT.

The mandated environmental review for NFGT is based on outdated information, contains only general information and clearly contains omissions of sensitive resources and appropriate protection.

The EA should have utilized a comprehensive analysis for the overall habitat needs for a recovered RCW population.

Economic analysis is lacking, no data is provided and there is no recognition of the current global oversupply of oil and natural gas.

The EA does not make use of currently available information to present a better idea of the sustainability of groundwater resources. The EA does not provide data or analysis for groundwater sustainability.

Leasing NFGT minerals at this time would be premature since the FS is currently engaged in a LRMP revision that will gather current information and address relevant issues and concerns at the local level.

There is great concern over the potential impacts to non-National Forest areas as well, especially lakes that are used for municipal water supplies.

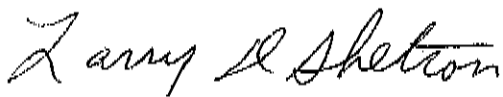
REQUEST FOR WITHDRAWAL OF THE LEASE PROPOSAL

TCA requests that the entire minerals lease be withdrawn pending:

- The gathering of more current information,
- Greater public outreach to identify relevant issues and concerns.
- Public collaboration to reach consensus on relevant issues and concerns.
- Preparation of a new EA that addresses the shortcomings of the current document and provides necessary resource protection, data and analysis.

Sincerely,

Larry D. Shelton



Attachments:

Letter to Forest Supervisor nominating Compartment 93 for SMA Status

10-3-08

Fred Salinas- Supervisor NFGT
415 South First Suite 110
Lufkin, TX. 75901

Dear Mr. Salinas,

Texas Conservation Alliance (TCA) proposes that portions of compartment 93 on the Davy Crockett National Forest (DCNF) be examined for designation as a Special Management Area (SMA). The compartment contains numerous attributes that qualify it as a unique resource on the DCNF worthy of SMA status. This proposal is consistent with the overall management direction of the 1996 Land and Resource Management Plan (LRMP).

PURPOSE AND NEED FOR ADDITIONAL SMA DESIGNATIONS

According to the 1996 LRMP the DCNF has the largest gross acreage of the four NFs in Texas yet it has the least amount of acres in designated SMAs, therefore SMAs are underrepresented on this Forest. The designation of additional SMAs on the DCNF is necessary to insure that high quality examples of a full spectrum of biological resources are represented on the Forest.

Although the 1990 Texas Natural Heritage Program Report sought to identify and protect the full range of rare and sensitive species on the NFs, the report also identified areas that contain all sensitive species and exemplary ecological areas. TCA believes that federal mandates obligate the FS to protect high quality examples of the full range of biodiversity ON EACH FOREST based on the unique geographic conditions of that particular Forest. Since the DCNF is fundamentally different from the other NFs in Texas, specific criteria should be established for protection of exemplary and unique plant communities on this Forest. This proposal begins the process of establishing guidelines for protection of unique and valuable resources and identifies specific areas for consideration as SMAs.

The 1996 LRMP identifies old growth as an important issue and further states that "Regional direction has stressed the importance of identifying and providing existing and potential old growth on the National Forests." Compartment 93 contains one of the largest concentrations of potential old growth on the NFGT with approximately 1,323 acres identified as being between 92 and 120 years of age. This feature undoubtedly qualifies the area as unique. With this proposal TCA seeks to identify significant

areas of old growth and allocate these areas to Management Area 1- Upland Forest Ecosystems. A portion of the compartment is also allocated to Management Area 4- Streamside Management Zones. TCA is not aware of any proposed management activities for C-93 at this time.

CURRENT MANAGEMENT STATUS

Compartment 93 is currently allocated to Management Area 1- Upland Forest Ecosystems. A portion of the compartment is also allocated to Management Area 4- Streamside Management Zones. TCA is not aware of any proposed management activities for C-93 at this time.

ECOLOGICAL ATTRIBUTES OF C-93

The Stand Prescription Summary for C-93 identifies approximately 18 stands totaling 1,323 acres as being over 92 years of age. These stands are typed mostly as pine but a variety of hardwoods is also found here. On the better sites, specimen trees exceed 36" diameter at breast height. This concentration of old timber constitutes one of the largest blocks of potential old growth on the NFGT.

A key geographic feature of C-93 is Piney Creek and its tributaries. Piney Creek traverses much of the DCNF and constitutes a major riparian resource on the Forest. Within C-93, Piney Creek offers numerous wildlife assets including water, a mature forest habitat and mast bearing hardwoods. Uncommon trees such as southern magnolia, black walnut and shag bark hickory are found within C-93.

C-93 harbors mature mesic forest sites at the western edge of the piney woods bio-region. Mesic forest indicator species such as southern tway-blade orchid (*Listera australis*), Walter's violet (*Viola walteri*) and purple meadow-rue (*Thalictrum dasycarpum*) are found in C-93. These areas represent significant biodiversity on the DCNF and are worthy of recognition and SMA status.

The area currently receives a substantial amount of recreational use from hikers, birders, and hunters. A full ecological assessment and botanical inventory should be prepared for this proposal area.

C-93

Compartment 93 harbors extensive areas of low lying lands associated with Piney Creek and its tributaries. The area supports approximately 1,323 acres of older age forest, several species of conservation concern and bottomland forest with high value to wildlife.

The key feature of this tract is the extensive old age forest:

- Loblolly pine- 42"
- Cherry bark oak- 48"
- Bitternut hickory-30"
- White oak- 36"
- Shagbark hickory- 30"
- Black walnut- 24"
- Southern magnolia- 24"

Natural processes such as SPB, wind and beavers have created gaps and younger age classes within the overall matrix of old age forest. Mature mast producing hardwoods, snags, den trees and natural openings provide valuable wildlife habitat. Shagbark hickory is locally abundant.

Shagbark hickory and Southern magnolia have high conservation value. Shagbark hickory is an indicator of older forest conditions and mature stands of this tree are rare. Southern magnolia occurs very rarely in Trinity County, Central Texas. ~~Shagbark hickory is a species of conservation concern and is a key component of the forest.~~ younger trees. Increasing the Southern magnolia component should be a key management goal.

A wide diversity of herbaceous plants is present including several uncommon species:

- Twayblade orchid
- Purple meadow rue
- Walter's violet

TCA recommends that no timber be removed from the stands proposed for SMA status. I will contact the District Ranger to schedule a field trip to the area to discuss the merits of this proposal.

Recommended Status for portions of C-93: Future Old Growth

Sincerely,

Larry D. Shelton

Cc: Gerald Lawrence

Eddie Taylor

Description of Piney Creek SMA Proposal

For

Field Trip March 27, 2012

PINEY CREEK WATERSHED

COMPARTMENT 93

DAVY CROCKETT NATIONAL FOREST

Piney Creek is a tributary of the Neches River that begins just south of SH 7 in Houston County and traverses over 20 miles through 10 compartments on the DCNF. A unique feature of Piney Creek is that it represents the most miles of riparian habitat in the DCNF. Piney Creek is a significant resource for the forest service lands within the DCNF. Piney Creek offers a unique opportunity to manage a significant block of NF land at the watershed level on a Forest which has a high degree of fragmentation and few large bottomland areas.

- Adder's tongue fern

Management Goals

Compartment 93 should be included in a larger Piney Creek Conservation Corridor Special Management Area which would include all compartments that adjoin Piney Creek. Management goals would vary depending on the ecological potential of the specific landscape along the stream.

This management unit is needed to ensure that a **comprehensive management strategy** is utilized for a **unique and valuable NF resource**. Whereas the DCNF contains few large riparian areas, this management unit is needed to **conserve significant riparian communities and associated wildlife habitat**. The DCNF contains the fewest acres in SMAs on the Texas NFs therefore this management unit is needed to **provide greater representation of the unique attributes associated with SMAs**.

The purpose of the management unit would be to:

- Provide a comprehensive management strategy for a unique and valuable NF resource.
- Provide a significant wildlife travel corridor spanning over 20 linear miles across 2 counties.
- Provide enhanced opportunities to manage for old growth forest conditions.
- Provide specific elements of wildlife habitat such as dens, cavities, snags and large downed woody debris.
- Provide an abundant source of hard and soft mast wildlife foods.
- Provide core areas for wildlife that have minimal disturbance from roads and other forms of human ingress and egress.
- Enhance water quality and soil conservation within the Piney Creek watershed.
- Provide management opportunities that are generally not represented on private land.
- Provide a better representation of the attributes that are associated with SMAs.
- Provide opportunities to protect and enhance under-represented forest communities and species.
- Provide opportunities to protect and promote species of conservation concern.
- Provide unique recreational opportunities.
- Enhance ecosystem management for a large stream segment.
- Facilitate ecological and watershed restoration.