

APPENDIX G

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G.1 BUREAU OF LAND MANAGEMENT-ENERGY AND MINERAL POLICY

This statement sets forth the Bureau of Land Management (BLM) policy for the management of energy and mineral resources on public lands, a component of the agency's multiple use mandate. The BLM seeks to implement its multiple use mission to balance various uses to achieve healthy and productive landscapes, including the development of energy and minerals in an environmentally sound manner.

This Energy and Mineral Policy reflects the provisions of six important acts of Congress relating to conventional, alternative, and renewable energy, and mineral resources, as follows:

The Domestic Minerals Program Extension Act of 1953 states that each department and agency of the Federal Government charged with responsibilities concerning the discovery, development, production, and acquisition of strategic or critical minerals and metals shall undertake to decrease further, and to eliminate wherever possible, the dependency of the United States on foreign sources of supply of such material.

The Mining and Minerals Policy Act of 1970 declares that it is the continuing policy of the Federal Government to foster and encourage private enterprise in the development of a stable domestic minerals industry and the orderly and economic development of domestic mineral resources. This act includes all minerals, including sand and gravel, geothermal, coal, and oil and gas.

The Federal Land Policy and Management Act of 1976 reiterates that the 1970 Mining and Minerals Policy Act shall be implemented and directs that public lands be managed in a manner that recognizes the Nation's need for domestic sources of minerals and other resources. It also mandates that "scarcity of values" be considered in land use planning.

The National Materials and Minerals Policy, Research and Development Act of 1980 requires the Secretary of the Interior to improve the quality of minerals data in Federal land use decision-making.

The Energy Policy Act of 2005 encourages energy efficiency and conservation, promotes alternative and renewable energy sources, reduces dependence on foreign sources of energy, increases domestic production, modernizes the electrical grid, and encourages the expansion of nuclear energy.

The Energy Independence and Security Act of 2007 to move the United States toward greater energy independence, to increase the production of clean renewable fuels, and support modernization of the nation's electricity transmission and distribution system.

The BLM recognizes that public lands are an important source of the Nation's energy and mineral resources, including renewable energy resources such as geothermal, wind, solar, and

biomass. The public lands are also important for the siting of infrastructure facilities to support the development of energy and minerals resources. The BLM makes public lands available for orderly and efficient development of these resources under the principles of Multiple Use Management, and the concept of Sustainable Development as was defined at the World Summit on Sustainable Development in 2002, in Johannesburg, South Africa, where 192 countries, including the United States, endorsed its resolution on minerals.

The following principles will guide the BLM in managing energy and mineral resources on public lands:

1. The BLM land use planning and multiple-use management decisions will recognize that energy and mineral development can occur concurrently or sequentially with other resource uses, providing that appropriate stipulations or conditions of approval are incorporated into authorizations to prevent unnecessary or undue degradation, reduce environmental impacts, and prevent a jeopardy opinion.
2. Land use plans will incorporate and consider energy and geological assessments as well as energy and mineral potential on public lands through existing energy, geology and mineral resource data, and to the extent feasible, through new mineral assessments to determine mineral potential. Partnerships with the National Renewable Energy Laboratory, Federal and State agencies, such as the U.S. Geological Survey and State Geologists, to obtain existing and new data will be considered.
3. Withdrawals and other closures of the public land must be justified in accordance with the Department of the Interior Land Withdrawal Manual 603 DM 1 and the BLM regulations at 43 CFR 2310. Petitions to the Secretary of the Interior for revocation of land withdrawals in favor of energy and mineral development will be evaluated through the land use planning process.
4. The BLM will work cooperatively with surface owners and mineral operators in recognizing their rights on split-estate lands. In the absence of a Surface Owner Agreement and in managing development of the Federal mineral estate on a nonfederal surface, the BLM will take into consideration surface owner mitigation requests from pre-development to final reclamation.
5. The BLM endorses Sustainable Development that encourages Social, Environmental, and Economic considerations before decisions are made on energy and mineral operations. The BLM actively encourages private industry development of public land energy and mineral resources, and promotes practices and technology that least impact natural and human resources.
6. The BLM will adjudicate and process energy and mineral applications, permits, operating plans, leases, rights-of-ways, and other land use authorizations for public lands in a timely

and efficient manner and in a manner to prevent unnecessary or undue degradation. The BLM will require financial assurances, including long-term trusts, to provide for reclamation of the land and for other purposes authorized bylaw. Prior to mine closure, reclamation considerations should include partnerships to utilize the existing mine infrastructure for future economic opportunities such as landfills, wind farms, biomass facilities, and other industrial uses.

7. Energy and mineral-related permit applications will be reviewed consistent with the requirements of NEPA and other environmental laws. The BLM will work closely with Federal, State and Tribal governments to reduce duplication of effort while processing energy and mineral-related permit applications.
8. The BLM will monitor locatable, salable and leasable mineral operations and energy operations to ensure proper resource recovery and evaluation, production verification, diligence, and enforcement of terms and conditions. The United States will receive market value for its energy and mineral resources unless otherwise provided by statute, and royalty rates will be monitored and evaluated to protect the public interest.
9. The BLM will continue to develop e-Government solutions that will provide for electronic submission and tracking of applications and the use of GIS technology to support development of energy and mineral resources. The BLM will continue to provide public access to current mineral records, including spatial display of all types of authorizations and mineral resource and ownership data. Data systems, such as LR 2000, will be kept current and best management practices sought to reduce backlogs and to identify errors.
10. The BLM will strive to maintain a professional workforce in adjudication, energy, geology, and engineering to support energy and mineral development.
11. To the extent provided by law, regulation, secretarial order, and written agreement with the Bureau of Indian Affairs, the BLM will apply the above principles to the management of mineral resources and operations on Indian Trust lands in order to comply with its Trust Responsibilities.

James Caswell Director August 2008

G.2 OIL/GAS, GEOTHERMAL, AND SOLID MINERALS LEASE STIPULATIONS AND GUIDELINES

G.2.1 INTRODUCTION

Allocations proposed under this plan identify lands open for and closed to leasing for oil, gas and geothermal resources. In addition, for lands open to leasing, the plan identifies proposed stipulations to be associated with the lease.

Virtually all of the leases issued in accordance with this RMP are expected to be for oil and gas leases, so these stipulations were designed for oil and gas leases. However, there may be rare instances where geothermal or solid mineral leases are issued. If that occurs, the same general stipulations may be applicable with identical or slightly modified wording.

Public lands that are closed to leasing are subdivided into two groups. Tracts that have been closed by previous legislation or secretarial policy form one group of lands and are known as *non-discretionary closures*. The second group of closed lands consisting of those proposed for closure under this plan is called *proposed discretionary closures*.

Lands open to oil and gas leasing are subdivided into the following groups: (1) open to leasing under a standard lease stipulation; (2) open to leasing under a no surface use stipulation; and (3) open to leasing under a controlled surface use stipulation. The standard oil and gas lease form includes those preprinted lease terms and conditions that apply to all leases. Other stipulations developed in this plan are applied in lease areas with special resource concerns and supersede any inconsistent provisions of the standard lease form. The special stipulations proposed in this plan address no surface occupancy for areas where very unique resources exist, and controlled surface use for areas with resource protection needs slightly different from the standard lease stipulation.

G.2.2 LANDS CLOSED TO OIL AND GAS LEASING

Non-Discretionary Closures to Leasing

The 1920 Mineral Leasing Act, as amended, authorizes the Secretary of the Interior to lease Federal oil and gas resources on public domain and acquired lands. Federal minerals excluded from such leasing by legislation or secretarial policy include those underlying units of the National Park System, National Wildlife Refuges, Native American reservations, incorporated cities, and lands closed under previous land use decisions. Lands recommended for wilderness designation, wilderness study, or already within the National Wilderness Preservation System are also non-discretionary closures by existing legislation. Non-discretionary closures are discussed under the general framework of the Bakersfield Resource Management Plan for reference purposes but are not part of the Plan's land use allocation scope and purpose.

Lands Proposed for Discretionary Closures to Leasing

Discretionary closures to oil, gas and geothermal leasing are proposed by the land allocations in this plan. These proposals include areas of extreme resource sensitivity (e.g., some ACECs) requiring a level of protection that may only be achieved through closure to leasing activities.

G.2.3 LANDS OPEN TO OIL AND GAS LEASING

The remainder of the public land and federally reserved mineral estate within the Decision Area are open for oil and gas leasing. As parcels are offered for leasing, lease stipulations will be applied based on the allocations and analysis in this RMP. As described above these lands would be subject to three categories of lease stipulations:

G.3 LEASING WITH STANDARD LEASE STIPULATION

The standard lease stipulation includes the terms and conditions that are the national standards printed on BLM lease forms (form 3100-11, Oct. '08).

Under standard terms, exploration and development operations must be conducted in a manner that minimizes adverse impacts to the land, air, and water, to cultural biological, visual, and other resources, and to other land uses and users. The lessee must take reasonable measures deemed necessary by the BLM to minimize adverse impacts. These measures may include modification of siting (less than 200 meters (656 feet)) or design of facilities, timing of operations (delaying the project less than 60 days in one lease year), and specification of interim and final reclamation measures (43 CFR 3101.1-2).

G.4 LEASING WITH NO SURFACE OCCUPANCY (NSO) STIPULATION

G.4.1 NSO-GENERAL

Stipulation: *All or a portion of this lease has been identified by the current RMP (e.g., ACECs and areas of ecological importance with this stipulation prescribed) as containing unique or significant natural or cultural values. No new surface disturbing activity is allowed on the lease.*

Objective: *To minimize or eliminate adverse effects on unique or significant natural and cultural resources that are incompatible with fluid mineral development.*

Exception: *The Authorized Officer may grant an exception if, after coordination with appropriate agency (e.g., CDFG, SHPO, and USFWS), an environmental review determines the action as proposed or conditioned would not impair the values present because of temporary conditions.*

Modification: *The Authorized Officer may modify this stipulation to allow surface use on a portion or even all of the lease if an environmental review determines the action as proposed or conditioned would not impair the values present.*

Waiver: *The Authorized Officer may grant a waiver if an environmental review determines the values for which the NSO was applied no longer exist.*

Additional Information

Application—The NSO-General stipulation would be applied when adequate protection of surface resources cannot be provided through mitigation, and fluid mineral development of the lease from an off-site location is recommended. If there is no surface location available for directional drilling, the land would not be leased.

Review Process—Any proposed surface-disturbing activity would be reviewed to determine whether it is in compliance with the NSO stipulation. If the review determines the proposed action would not impair the values present and would be consistent with the management of the ACEC or area of ecological importance, exception or modification may be granted. Any decision to grant an exception or modification would be based on field inspection and inventory and the NEPA review process.

G.4.2 NSO-BITTER CREEK ACEC

Stipulation: *All or a portion of this lease occurs within the boundaries of the Bitter Creek ACEC and the Bitter Creek National Wildlife Refuge. No new surface disturbing activity is allowed on the lease. Furthermore, access to federal minerals within the lease will only be allowed from off-site sources not within the Bitter Creek National Wildlife Refuge boundary.*

Objective: *To prevent or reduce disturbance to current or future refuge resources from fluid mineral development.*

Exception: *The Authorized Officer may grant an exception if, after coordination with USFWS, an environmental review determines the action as proposed or conditioned would not impair the values present and is consistent with the management of the National Wildlife Refuge.*

Modification: *The Authorized Officer may modify this stipulation to allow surface use on a portion or the entire lease if, after coordination with USFWS, an environmental review determines the action as proposed or conditioned would not impair the values present and is consistent with the management of the National Wildlife Refuge.*

Additional Information

Application—The NSO-Bitter Creek stipulation would be applied to all leases within the boundary of the Bitter Creek National Wildlife Refuge. Furthermore, access to federal minerals within the lease will only be allowed from off-site sources not within the Refuge boundary. If all of the surrounding land is also within the Refuge boundary, and there is no other surface location available for directional drilling, the land would not be leased.

Review Process—Any proposed surface-disturbing activity would be reviewed to determine whether it is in compliance with the NSO stipulation. If the review determines the proposed action would not impair the values present and would be consistent with the management of the Refuge

and ACEC, exception or modification may be granted in coordination with the USFWS. Any decision to grant an exception or modification would be based on field inspection and inventory and the NEPA review process.

G.4.3 NSO-COMPENSATION LANDS ACEC

Stipulation: *All or a portion of this lease occurs within the boundaries of the Compensation Lands ACEC. These lands may have a governing document that prohibits certain activities. No new surface disturbing activity is allowed on the lease. Furthermore, access to federal minerals within the lease will only be allowed from off-site sources not considered to be compensation lands (e.g., compensation land in private ownership).*

Objective: *To minimize or eliminate adverse effects associated with fluid mineral development on lands acquired as compensation land.*

Exception: *The Authorized Officer may grant an exception if, after coordination with appropriate agency (e.g., CDFG and USFWS), an environmental review determines the action as proposed or conditioned would not impair the values present and is consistent with the document that established the compensation land.*

Modification: *The Authorized Officer may modify this stipulation to allow surface use on a portion or the entire lease if, after coordination with appropriate agency (e.g., CDFG and USFWS), an environmental review determines the action as proposed or conditioned would not impair the values present and is consistent with the document that established the compensation land.*

Additional Information

Application—The NSO-Compensation Lands stipulation would be applied to all new leases within the Compensation Lands ACEC. Furthermore, access to federal minerals within the lease will only be allowed from off-site sources that are not Compensation Lands. If all of the surrounding land is also Compensation Lands, and there is no other surface location available for directional drilling, the land would not be leased.

Review Process—Any proposed surface-disturbing activity would be reviewed to determine whether it is in compliance with the NSO stipulation. If the review determines the proposed action would not impair the values present and would be consistent with the management of the ACEC and the document that established the Compensation Lands; exception or modification may be granted in coordination with the USFWS. Any decision to grant an exception or modification would be based on field inspection and inventory and the NEPA review process.

G.5 LEASING WITH THE CONTROLLED SURFACE USE (CSU) STIPULATION

Special stipulations may be proposed for use to protect unique resources or values where it may be necessary to modify surface activities beyond authorities contained under the standard lease terms (43 CFR 3103.1-3). The Controlled Surface Use Stipulation allows BLM, in consultation with the applicant, to extend modification of development proposals beyond the standard 200 meters and 60

day conditions. By reserving the additional leeway in siting facilities, the BLM and applicant can generally use the combination of increased siting and timing flexibility to modify development proposals to entirely avoid or significantly minimize surface disturbing effects associated with lease development. The Controlled Surface Use stipulation thus allows BLM to offer for lease parcels known to or suspected to contain unique resources or values and resolve any potential conflicts at the time when the lessee is prepared to design development proposals. Historically the BLM in cooperation with the lessee has been able to find sufficient flexibility in designing lease development proposals, even in the most sensitive of locations, to facilitate development without adversely affecting the resource values.

Exceptions, waivers, or modifications to lease stipulations provide an effective means of applying “adaptive management” techniques to fluid mineral leases and associated permitting activities to meet changing circumstances. An operator may also request that the BLM waive (permanently remove), except (case-by-case exemption) or modify (permanently change) a lease stipulation for a Federal lease. A request to waive, except, or modify a stipulation should also include information demonstrating that the factors leading to its inclusion in the lease have (1) changed sufficiently to make the protection provided by the stipulation no longer justified or (2) that the proposed operation would not cause unacceptable impacts. Public notification and 30-day review may be required for exceptions, waivers, or modifications that involve an issue of major concern to the public. Documentation requirements would follow those outlined in 43 CFR 3101.1-4.

Special conditions that may be attached to new leases issued in the Bakersfield Field Office are collectively referred to as the Controlled Surface Use (CSU) stipulation and supersede any inconsistent provisions of the standard lease form. The wording of the Controlled Surface Use stipulation has been adjusted to address ten differing resource concerns. The Controlled Surface Use Stipulation would be applied to the lease parcels as described below.

G.5.1 CSU-DEFENSE

Stipulation: *All or a portion of this lease contains federal mineral estate under the surface administration of the Department of Defense. Surface disturbing activities may be moved, modified, or prohibited at the discretion of the Base Commander(s) to ensure these activities do not interfere with military activity on the base and to ensure personnel safety. Furthermore, processing times for proposed actions may be delayed beyond established standards to accommodate review and coordination with the Base Commander(s).*

Objective: *To minimize or eliminate conflict between fluid mineral development and military base operations.*

Waiver: *The Authorized Officer may grant a waiver if the surface administration changes from the Department of Defense to another entity.*

Additional Information

Application—The CSU-Defense stipulation would be applied to federal reserved mineral estate under the surface administration of the Department of Defense. Approximately 69,700 acres are

affected, including Point Mugu, Port Hueneme, San Nicholas Island, Vandenberg Air Force Base, Camp Roberts, and Lemoore Naval Air Station. Coordination with local government agencies regarding the development of stipulations would be at the discretion of the base commander.

When a tract of land on a military installation is nominated for lease sale, the applicant would be notified that a legal description of the tract of interest has been forwarded to the attention of the base commander. The base commander would respond to the BLM with the recommended wording of the CSU-Defense stipulation. The wording would vary based on the base mission and would be applied to the entire military installation or to a limited portion of the parcel, at the discretion of the base commander. The BLM may alternatively identify in advance of lease sale offerings the terms and conditions applicable to military installations and thus be able to offer the leases for bid with advance disclosure of the terms and conditions.

Review Process—Generally, the following procedure would be used to approve surface-disturbing activities on leases with the CSU-Defense stipulation. The proposed activity would be reviewed to determine if the mission of the military installation would be affected. The review process would involve meetings coordinated by the BLM between the lessee and the representatives of the military base to determine impacts and potential effects.

Approval—If the review determines that the mission of the military installation would not be affected Bureau approval of the proposed activity would normally be granted within 30 days of the review. If the review determines that the mission of the military installation would be adversely affected, the BLM would coordinate with the Base Commander and the applicant to modify the proposal. Modifications may include movement of activities, seasonal restrictions, mitigation and/or compensation. Modified proposals would be developed cooperatively with the applicant to ensure that the modified project still meets the applicant's objective.

G.5.2 CSU-PROTECTED SPECIES

Stipulation: *All or a portion of the lease occurs within the range of one or more plant or animal species that are either listed or proposed for listing as threatened or endangered by the USFWS. A list of such species will be provided at the time of leasing and updated as necessary over the term of the lease. To determine whether species on this list or their habitat are present, a preliminary environmental review will be conducted for all surface disturbing activities. Presence of habitat or species may result in the proposed action being moved, modified, or delayed to mitigate project effects. Offsite compensation that would satisfactorily offset the loss of habitat may be required. Prohibition of all surface disturbing activities on the lease will only occur as needed to avoid jeopardizing the continued existence of a listed or proposed species, or when the proposed action is inconsistent with the recovery needs of a species as identified in an approved USFWS Recovery Plan through consultation with USFWS. Furthermore, processing times for proposed actions may be delayed beyond established standards to accommodate species surveys, and consultation or conferencing with the USFWS. This stipulation shall not be waived.*

Objective: *To minimize or eliminate adverse effects associated with fluid mineral development on federally proposed and listed species.*

Exception: *The Authorized Officer may grant an exception if an environmental review determines the action as proposed or conditioned would have no effect on listed or proposed species.*

Modification: *The Authorized Officer may modify this stipulation to reflect new information with regard to the range of listed or proposed species through the expansion or reduction of lands subject to this stipulation for a specific species.*

Additional Information

Application—At the time of leasing, the CSU-Protected Species stipulation would be attached to all leases within the range of federally listed or proposed species. A list of protected species found within the Field Office boundary would be included with the stipulation for each lease at the time of leasing. This list may be updated at the time of APD/NOS submittal.

Review Process—Generally, the following process would be used to approve surface-disturbing activities on leases with the CSU-Protected Species stipulation. The proposed activity would be reviewed to determine if listed or proposed species would be affected. This review may involve site-specific surveys for plant and animal species conducted according to established methods that may specify certain seasons or other conditions. In some cases, this may mean that a survey cannot be completed until the next growing season for some plant species or after seasonal appearance for some animal species.

If the review determines that listed or proposed species would not be affected, an exception to the stipulation and approval of the application would normally be granted within 30 days of the review.

If the review were to determine that listed or proposed species may be affected, but in a beneficial, insignificant, or benign manner, and written concurrence is received from the USFWS, approval of the application would normally be granted within 30 days of receiving USFWS concurrence. There is no regulatory timeframe for USFWS to provide their written concurrence.

If it is determined that a listed or proposed species may be adversely affected, the BLM would work with the applicant to modify the proposal to minimize impacts. Modifications may include movement of activities, seasonal restrictions, mitigation, or compensation. Modified proposals would be developed with the applicant to ensure that the modified project still meets the applicant's objective. If the modified project would still adversely affect a listed or proposed species, the BLM would begin formal consultation or conference with the USFWS.

Coordination with the USFWS on Listed Species—Currently there are two options for meeting the formal consultation requirement. A new consultation may be initiated or a previously completed formal consultation may be used.

If a new consultation were initiated, the USFWS would issue a document, called the biological opinion. The USFWS has up to 135 days to complete a biological opinion, and it may request a 60-day extension. Extensions beyond 195 days require the consent of an applicant.

A previously completed formal consultation may also be used to meet the formal consultation requirement. An example of previously completed consultation that may be used is the *San Joaquin Valley Oil and Gas Programmatic Biological Opinion*.

Upon completion of a new consultation or determination that a previously completed consultation can be used, approval of the application will normally be granted within 30 days. If the new consultation concludes that a listed species may be jeopardized, then surface disturbance will be prohibited on the lease. Surface disturbance will also be prohibited if the consultation concludes that the proposed action is inconsistent with the recovery needs of the listed species as identified in an approved USFWS Recovery Plan.

Coordination with the USFWS on Proposed Species—BLM policy requires a conferencing with the USFWS on any action that may adversely affect proposed species. Depending on the complexity of the situation, a conference may be completed in a single telephone conversation or may require the time frames of a consultation. Generally, on completion of the conference, approval of the application will be granted within 30 days.

If the conference were to show that a proposed species may be jeopardized, surface-disturbing activities would be prohibited on the lease.

Final Approval—Final approval of applications that would have no effect on listed or proposed species would normally be granted within 30 days of the review.

Final approval for projects that may affect listed or proposed species in a beneficial, insignificant, or benign manner would normally be granted within 30 days of receiving USFWS written concurrence.

For projects that require consultation or conference with the USFWS, final approval would normally be granted within 30 days of consultation or conference completion. Conditions of approval would include any conditions specified by the BLM or USFWS for minimizing impacts.

G.5.3 CSU-CRITICAL HABITAT

Stipulation: *All or a portion of this lease lies within an area that is designated as critical habitat, or is proposed for designation as critical habitat by the USFWS. A list of these areas affecting this lease will be provided at the time of leasing and will be updated as necessary over the term of the lease. Any proposed surface disturbing activity occurring on the affected portions of this lease will be reviewed to determine if the activity would affect designated or proposed critical habitat. Determination of effects to designated or proposed critical habitat may result in the proposed action being moved, modified, seasonally restricted, or delayed. Consultation or conference with the USFWS is required if designated or proposed critical habitat may be affected. Off-site compensation that would satisfactorily offset the loss of habitat may be required. Prohibition of all surface disturbing activities on the lease will only occur as needed to avoid destroying or adversely modifying critical habitat or proposed critical habitat, or when the proposed action is inconsistent with the recovery needs identified in an approved USFWS Recovery Plan based on consultation with USFWS. Furthermore, processing times for proposed actions may be delayed beyond established standards to accommodate species surveys, and consultation or conferencing with the USFWS. This stipulation shall not be waived.*

Objective: *To minimize or eliminate adverse effects associated with fluid mineral development on habitat designated as critical, or is proposed for designation as critical habitat by the USFWS.*

Exception: *The Authorized Officer may grant an exception if an environmental review determines the action as proposed or conditioned would have no effect on critical habitat or proposed critical habitat.*

Modification: *The Authorized Officer may modify this stipulation to reflect new information with regard to the critical habitat or proposed critical habitat through the expansion or reduction of lands subject to this stipulation for a specific species.*

Additional Information

Application—The CSU-Critical Habitat stipulation would be applied to leases in areas that are designated as critical habitat or that are proposed for designation as critical habitat for certain species. A list of species and parcels would be included with the stipulation for each lease. The USFWS designates or proposes critical habitat according to the regulations found in 50 CFR 424. Critical habitat is one of the following:

- Specific areas within the geographical area currently occupied by a species, at the time it is listed in accordance with the Endangered Species Act, on which are found those physical or biological features (i) essential to the conservation of the species and (ii) that may require special management considerations or protection, and
- Specific areas outside the geographical area occupied by a species at the time it is listed upon a determination by the Secretary that such areas are essential for conservation of the species (50 CFR 424.02).

Review Process—Generally, the following process would be used to approve surface-disturbing activities on leases with the CSU-Critical Habitat stipulation. The proposed activity would be reviewed to determine if designated or proposed critical habitat would be affected. This review may involve site-specific surveys for plant and animal species, conducted according to established methods, which may specify certain seasons or other conditions. In some cases this may mean that a survey cannot be completed until the next growing season for some plant species or after seasonal appearance for some animal species.

If the review determines that designated or proposed critical habitat will not be affected, an exception to the stipulation would be granted, and approval of the application will normally be granted within 30 days of the review.

If the review determines that designated or proposed critical habitat may be affected, but in a beneficial, insignificant, or benign manner, and written concurrence is received from the USFWS, the application would normally be approved within 30 days of receiving USFWS concurrence. There is no regulatory timeframe for USFWS to provide their written concurrence.

If it is determined that designated or proposed critical habitat may be adversely affected, BLM would work with the applicant to modify the proposal to minimize impacts. Modifications may include

relocating activities, seasonal restrictions, mitigation, and compensation. Modified proposals would be developed with the applicant to ensure that the modified project still meets the applicant's objective. If the modified project were to still adversely affect designated or proposed critical habitat, the BLM would initiate formal consultation or conference with the USFWS.

Coordination with the USFWS on Designated Critical Habitat—The BLM is required to initiate formal consultation with the USFWS for any action that may affect designated critical habitat. As a result of the consultation, the USFWS would issue a biological opinion within 135 days, and it may request a 60-day extension. Extensions beyond 195 days require the consent of an applicant.

As part of the biological opinion, the USFWS would determine if the proposed action would be likely to destroy or adversely modify critical habitat. Destruction or adverse modification of critical habitat means a direct or indirect alteration that appreciably diminishes the value of critical habitat for both the survival and recovery of a listed species. Such alterations include those adversely modifying any of the physical or biological features that were the basis for determining the habitat to be critical (50 CFR 402.02).

If consultation concludes that critical habitat would be destroyed or adversely modified, then surface disturbance would be prohibited on the affected portion of the lease. Surface disturbance also would be prohibited if the consultation were to conclude that the proposed action is inconsistent with the recovery needs of the listed species, as identified in an approved USFWS recovery plan.

Coordination with the USFWS on Proposed Critical Habitat—BLM policy requires conferencing with the USFWS on any action that may adversely affect proposed critical habitat. Depending on the complexity of the situation, a conference may be completed in a single telephone conversation or may require the time frames of a consultation. Generally, on completion of the conference, the application would be approved within 30 days. If the conference were to show that proposed critical habitat would be destroyed or adversely modified, then surface disturbance would be prohibited on the affected portion of the lease.

G.5.4 CSU-SENSITIVE SPECIES

Stipulation: *All or a portion of this lease is within the range of one or more plant or animal species that are either federal candidates for listing as threatened or endangered (federal candidate), are listed by the State of California as threatened or endangered (state listed), or are designated by the BLM as sensitive (BLM sensitive). A list of species will be provided at the time of leasing and updated as necessary over the term of the lease. To determine whether species on this list or their habitat are present, a preliminary environmental review will be conducted for all surface disturbing activities. Presence of habitat or species may result in the proposed action being moved more than 200 meters (656 feet) but not more than a quarter-mile or off of the lease and prohibition of activities during seasonal use period. Furthermore, processing times for proposed actions may be delayed beyond established standards to accommodate species surveys, and coordination with the USFWS and California Department of Fish and Game.*

Objective: *To minimize or eliminate adverse effects associated with fluid mineral development on federal candidate, state listed, and BLM sensitive species.*

Exception: *The Authorized Officer may grant an exception if an environmental review determines the action as proposed or conditioned would have no effect on federal candidate, state listed, and BLM sensitive species.*

Modification: *The Authorized Officer may modify the stipulation to reflect new information with regard to federal candidate, state listed or BLM sensitive species lists. Furthermore, the authorized officer may modify the maximum distance that a potential location could be moved to extend farther than the stated quarter-mile to maintain the sensitive species protection goals.*

Additional Information

Application—The CSU-Sensitive Species stipulation would be attached to all leases that are within the range of a federal candidate, state listed or BLM sensitive species. A list of sensitive species within the Field Office boundary would be included with the stipulation for each lease when the lease is issued.

Review Process—Generally the following process would be used to approve surface-disturbing activities on leases with the CSU-Sensitive Species stipulation. The proposed activity would be reviewed to determine if special status species would be affected. This review may involve site-specific surveys for plant and animal species, conducted according to established methods that may specify certain seasons or other conditions. In some cases this may mean that a survey cannot be completed until the next growing season for some plants or after seasonal appearance for some animal species.

If the review determines that a special status species may be adversely affected, then surface-disturbing activities may be relocated up to a quarter-mile, but not off the lease, and certain surface-disturbing activities may be prohibited during seasonal periods. BLM policy may also require coordination with the USFWS or California Department of Fish and Game.

G.5.5 CSU-PRIORITY SPECIES, PLANT COMMUNITIES AND HABITATS

Stipulation: *All or a portion of the lease has been identified by the current RMP (i.e., ACECs and areas of ecological importance with this stipulation prescribed) as containing priority species, plant communities, or habitat that may be adversely affected by fluid mineral development. A list of affected parcels or portions of the lease will be provided at the time of leasing. To identify the possibility of adverse impact resulting from fluid mineral development, a preliminary environmental review will be conducted for all surface disturbing activities. Identification of adverse impacts may result in the proposed action being moved, modified, seasonally delayed, or prohibited from all or a portion of this lease. Furthermore, processing times for proposed actions may be delayed beyond established standards to accommodate species surveys.*

Objective: *To minimize or eliminate adverse effects associated with fluid mineral development on priority species, plant communities, or habitat.*

Exception: *The Authorized Officer may grant an exception if an environmental review determines the action as proposed or conditioned would have no effect on priority species, plant communities, or habitats.*

Modification: *The Authorized Officer may modify the stipulation to reflect new information with regard to the presence of priority species, plant communities, or habitat through the expansion or reduction of lands subject to this stipulation.*

Additional Information

Application—The CSU-Priority Species, Plant Communities and Habitats stipulation would be applied to specific areas that contain unique or significant biological and botanical values as described in the RMP (i.e., ACECs and areas of ecological importance).

Review Process—Generally the following process would be used to approve surface-disturbing activities on leases with the CSU- Priority Species, Plant Communities and Habitats stipulation: The proposed activity would be reviewed to determine if the values for which the area was recognized would be affected. This review may involve site-specific surveys for plant species, conducted according to established methods, which may specify certain seasons or other conditions. In some cases this may mean that a survey cannot be completed until the next growing season for some plants species.

If the review were to determine that the values for which the area was recognized may be adversely affected, then surface-disturbing activities may be moved, modified, or prohibited on portions of or the entire lease and certain activities may be prohibited during seasonal periods.

G.5.6 CSU-RAPTOR

Stipulation: *All or a portion of this lease has been identified as an important raptor foraging, wintering, or nesting area. Any proposed surface disturbing activity will be reviewed to determine if the activity would affect raptor foraging, wintering, or nesting habitat. Determination of effects to raptor foraging, wintering, or nesting habitat may result in the proposed action being moved more than 200 meters (656 feet) but not more than a half-mile and prohibition of activities during seasonal use period.*

Objective: *To minimize or eliminate adverse effects associated with fluid mineral development on sensitive raptor foraging areas, winter roosting areas, or nest sites.*

Exception: *The Authorized Officer may grant an exception if the operator submits a plan that demonstrates that impacts from the proposed action are minimal or can be adequately mitigated.*

Modification: *The Authorized Officer may modify the distance and other provisions of this stipulation based on new information and increasing or decreasing levels of the impacts anticipated from fluid mineral development.*

Waiver: *The Authorized Officer may waive the stipulation should new information show the area no longer contains sensitive raptor habitat for foraging, winter roosting, or nesting.*

Additional Information

Application—The CSU-Raptor stipulation would be applied to lands that have been identified as important raptor foraging, wintering, or nesting areas. Such lands include, but are not limited to, the

Hopper Mountain, Kaweah, Kettleman Hills, Chico Martinez, Temblor, Caliente Mountain, and the San Joaquin River Gorge areas.

Review Process—Generally, the following process would be used to approve surface-disturbing activities on leases with the CSU-Raptor stipulation. The proposed activity would be reviewed to determine if sensitive raptor foraging areas, winter roosting areas, or nest sites would be affected. If the review were to show that sensitive raptor use areas may be adversely affected, then surface-disturbing activities may be relocated up to one-half mile or certain activities may be prohibited during seasonal periods. Modified proposals would be developed with the applicant to ensure that the modified project still meets the applicant's objective.

Different raptor species and different individuals vary in their sensitivity and ability to habituate to disturbances. Type and extent, duration and timing, and visibility of disturbance and influence of other environmental factors, such as topography, also affect the significance of the disturbance in any particular case. Often, moving an activity out of visibility, such as behind a topographic feature, would be sufficient. Delaying certain new activities until young birds have fledged is also a common tactic. Movement of surface-disturbing activities to retain roost trees or hunting perches may also be used.

The following species or groups of species would be eligible for protection under the CSU-Raptor stipulation: golden eagle, bald eagle, black-shouldered kite, northern harrier, sharp-shinned hawk, Cooper's hawk, northern goshawk, red-shouldered hawk, red-tailed hawk, Swainson's hawk, rough-legged hawk, ferruginous hawk, osprey, American kestrel, merlin, prairie falcon, peregrine falcon, and all owl species.

G.5.7 CSU-KNOWN CULTURAL RESOURCES

Stipulation: *All or a portion of the lease contains National Register-listed or potentially eligible cultural properties that may be adversely affected by fluid mineral development. A list of affected parcels or portions of the lease will be provided at the time of leasing. To identify the possibility of adverse impacts resulting from fluid mineral development, a preliminary cultural resource review/survey will be conducted for all surface disturbing activities. Identification of adverse impacts may result in the proposed action being moved or modified. Surface-disturbing activities would be prohibited on the portion of the lease where National Register-listed properties or properties potentially eligible for listing on the National Register occur.*

Objective: *To minimize or eliminate adverse effects associated with fluid mineral development on known National Register-listed or potentially eligible cultural properties.*

Exception: *The Authorized Officer may grant an exception, with concurrence from the California State Historic Preservation Office and Native American tribes, if a subsequent formal eligibility evaluation indicates the cultural property is ineligible.*

Modification: *The Authorized Officer may modify the stipulation to reflect new information from formal eligibility evaluations for cultural properties through the expansion or reduction of land where surface disturbing activities would be prohibited.*

Waiver: *The Authorized Officer may grant a waiver to the stipulation should the results of formal eligibility evaluation determine all cultural properties ineligible for listing on the National Register.*

Additional Information

Application—The CSU–Cultural Resources stipulation would be applied to lands that contain known National Register-listed or potentially eligible cultural properties. The locations and number of acres affected would be determined at the leasing stage.

Review Process—Generally, the following process would be used to approve surface-disturbing activities on leases with the CSU-Cultural Resources stipulation. The proposed surface disturbing activity would be reviewed to determine if a known National Register- listed or potentially eligible cultural property would be affected. If the review were to show that the cultural property may be adversely affected, then surface-disturbing activities would be relocated or modified. Surface-disturbing activities would be prohibited on the lease only where the proposed action would be likely to destroy or adversely affect a known National Register-listed property or properties found eligible for listing on the National Register.

G.5.8 CSU-COMPENSATION LANDS

Stipulation: *All or a portion of this lease underlies lands managed as compensation land by the BLM or an entity other than the BLM that may have a governing document that prohibits certain activities. To allow only a compatible amount of disturbance to unique or significant biological values, no more than ten (10) percent of the surface within any parcel may be disturbed on the surface reserve lands overlaying the lease. Furthermore, access to federal minerals within the lease will not disturb more than ten (10) percent of the surface within any parcel from off-site sources that are compensation lands (e.g., compensation land in private ownership).*

Objective: *To minimize or eliminate adverse effects associated with fluid mineral development on lands acquired as compensation land.*

Exception: *The Authorized Officer may grant an exception if, after coordination with appropriate agency (e.g., CDFG and USFWS), an environmental review determines the action as proposed or conditioned would not impair the values present and is consistent with the document that established the compensation land.*

Modification: *The Authorized Officer may modify this stipulation if, after coordination with appropriate agency (e.g., CDFG and USFWS), an environmental review determines the action as proposed or conditioned would not impair the values present and is consistent with the document that established the compensation land.*

Waiver: *The Authorized Officer may grant a waiver to the stipulation if the lease parcel no longer considered as compensation land by the appropriate agency (e.g., CDFG and USFWS).*

Additional Information

Application—The CSU—Compensation Lands stipulation would be applied to mineral estate underlying areas managed as compensation lands by the BLM or an entity other than BLM.

Review Process—Generally the following process would be used to approve surface-disturbing activities on leases with the CSU—Compensation Lands stipulation: The document or agreement governing the specific parcel of compensation land (such as a conservation easement, USFWS biological opinion, CDF&G agreement) would be reviewed to determine if the proposed activity is allowed on the parcel. If the proposed activity is allowed by the governing document, the activity would be reviewed to determine if the proposed surface disturbance would exceed the 10 percent threshold. If the review determines that the proposed activity would cumulatively exceed this threshold, actions to reduce the cumulative surface disturbance to below 10 percent, such as restoration, would be required prior to approval of the proposed activity.

If the review were to determine that the proposed activity is not allowed by the governing document, or that the cumulative surface disturbance cannot be kept at or below the 10 percent threshold, then new surface-disturbing activities would be prohibited.

If lands adjacent to the lease have also been set aside as compensation lands, either by BLM or another entity, off-site surface-disturbing activities to access federal mineral estate will be subjected to the same restrictions as above.

G.5.9 CSU-EXISTING SURFACE USE/MANAGEMENT

Stipulation: *All or a portion of the lease contains federal mineral estate underlying surface with an established use or management that may be incompatible with fluid mineral development. A preliminary environmental review will be conducted for all surface disturbing activities to identify possible conflict between surface use and fluid mineral development. Surface disturbing activities may be moved, modified, or prohibited to accommodate the existing surface use should the Authorized Officer determine the incompatibility of these uses. Specifically, fluid mineral development shall not occur:*

1. *Closer to any development (e.g., public highway, institution, or place of public assembly) than allowed by the county/city regulation or statute applicable to the area in which the proposed action occurs (including those exceptions where closer spacing is allowed);*
2. *Within 200 feet of an occupied dwelling;*
3. *In a manner that significantly and adversely impacts natural and/or cultural resources of which the surface owner/administrator is charged with the management and protection; or*
4. *In a manner that significantly and adversely impacts existing recreation opportunity of which the surface owner/administrator is charged with the management and protection.*

Furthermore, processing times for proposed actions may be delayed beyond established standards to accommodate review and coordination with the surface owner/administrator.

Objective: *To minimize or eliminate conflict between fluid mineral development and existing surface uses on both public lands and split estate over federal minerals, and to reduce impacts associated with fluid mineral resource development on the owners/occupants within a dwelling or structure on split estate lands.*

Exception: *The Authorized Officer may grant an exception where a surface use agreement exists between the lessee and surface owner/administrator that allows for the proposed fluid mineral development. Furthermore, exception may be granted where the proposed action is deemed, following an environmental review, to have discountable or insignificant impacts on the existing surface use.*

Modification: *The Authorized Officer may modify this stipulation to further restrict surface use for mineral development on a portion of or all the lease if a more stringent requirement with regard to the location of facilities is deemed necessary following an environmental review (e.g., greater than county/city restrictions on fluid mineral development).*

Additional Information

Application—The CSU-Existing Surface Use/Management stipulation would be applied to areas where the authorized officer determines that pre-existing surface management uses/conditions would be incompatible with or preclude oil and gas operations from using the surface of a portion or even all of the leased land. The locations and number of acres affected would be determined at the leasing stage.

Review Process—Generally the following process would be used to approve surface-disturbing activities with the CSU-Existing Surface Use/Management stipulation. The proposed activity would be reviewed cooperatively with the surface manager to determine if it is compatible with the existing uses/conditions, and if not, the activity would be moved or possibly even denied/rejected.

G.5.10 CSU-CHIMINEAS RANCH

Stipulation: *This lease is within the boundaries of, or adjacent to, the State of California's Chimineas Ranch Ecological Reserve, an area that contains unique or significant natural or cultural values. Prior to the authorization of any surface disturbing activities, a preliminary environmental review will be conducted to identify the potential presence of natural or cultural values. Authorizations may be delayed until completion of the necessary surveys during the appropriate time period for these resources. Surface disturbing activities may be prohibited on portions or the entire lease, and some activities may be prohibited during seasonal time periods.*

Objective: *To prevent or reduce disturbance to unique or significant natural or cultural values from fluid mineral development.*

Exception: *The Authorized Officer may grant an exception if, after coordination with CDFG, an environmental review determines that the activity, as proposed or conditioned, would not impair the values present and is consistent with the management of the ecological reserve.*

Modification: *The Authorized Officer may modify this stipulation to further restrict surface use on a portion of or the entire lease if a more stringent requirement is deemed necessary to protect resource values following an environmental review.*

Addition Information

Application—The CSU–Chimineas Ranch stipulation would be applied to lands adjacent to, or within the boundaries of the California Department of Fish and Game’s Chimineas Ranch Ecological Reserve, where the surface is managed by BLM. Split estate land, where the surface is management by the California Department of Fish and Game, would be subject to the NSO-Existing Surface Use/Management stipulation.

Review Process—Generally, the following process would be used to approve surface disturbing activities on leases with the CSU–Chimineas Ranch stipulation. The proposed activity would be reviewed to determine if the values for which the area was recognized would be affected. This review may involve site specific surveys for plant and animal species, conducted according to established methodologies which may specify certain seasons or other conditions. In some cases this may mean that a survey cannot be completed until the next growing season for some plants or after seasonal appearance for some animal species.

If the review determines that the values for which the area was recognized may be adversely affected, then surface disturbing activities may be prohibited on all or portions of the lease and certain activities may be prohibited during seasonal periods.