

WildLaw

A Non-profit Environmental Law Firm

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November 16, 2009

Bureau of Land Management
Eastern States Office
7450 Boston Boulevard
Springfield, VA 22153.

**Re: PROTEST over Leasing of Drilling Rights in the National Forests in
Alabama, NOTICE OF COMPETITIVE LEASE SALE
OIL AND GAS, Dated October 19, 2009 (cover sheet enclosed)**

Via Fax, to (703) 440-1551

Dear BLM:

Wild South hereby files this protest, under 43 C.F.R. 3120.1-3, over all parcels included in the proposed Lease Sale in the National Forests in Alabama. The Forest Service failed to comply with the Endangered Species Act (ESA) and the National Environmental Policy Act (NEPA) when these parcels were opened to mineral exploration and development in the Forests' Management Plan of 2003. Therefore, the lease, sale or development of ANY parcel of land in the National Forests in Alabama is illegal until such time as the Forest Service corrects the legal problems in the Plan.

The lease sale will be conducted by the U.S. Department of the Interior's Bureau of Land Management (BLM) on December 3, 2009, in Springfield, Virginia. One-hundred, forty-eight (148) parcels within the National Forests in Alabama (including the Oakmulgee Division of the Talladega National Forest, the Talladega Division of the Talladega National Forest and the Conecuh National Forest) are to be sold, for a total acreage of approximately 71,043.17 acres.

We also intend to sue the BLM and the Forest Service under NEPA and the Endangered Species Act for the leasing of these parcels. Our 60-day notice letter under § 11 of the Endangered Species Act is enclosed.

Wild South is a nonprofit conservation organization founded in Alabama and currently based in North Carolina. Wild South's staff and members regularly and repeatedly recreate in, seek solitude and otherwise enjoy the National Forests in Alabama, including all the parcels involved in this proposed Lease Sale. Many of the parcels in this proposed Lease Sale contain portions of popular hiking trails, including the Pinhoti National Recreational Trail and the Chinnabee Silent Trail. Wild South's staff and members regularly hike and enjoy these trails, including in the parcels involved in this proposed Lease Sale. The parcels also include Rebecca Mountain (an area proposed by Wild South as wilderness for more than a decade), the viewshed of the Cheaha Wilderness, the viewshed of the Dugger Mountain Wilderness, much of the Pinhoti Trail, most of the recreational lakes and campgrounds in the Talladega National Forest, the main recreational lake in the Conecuh national Forest (Brooks Hines Lake) and all its shores. Also, the headwaters of the Blackwater River, one of the coastal plain's premier recreational waters, are included in the proposed Lease Sale. These recreational resources, their solitude, their wildlife (including listed endangered and threatened species) and their beauty are all things of great value to the staff and members of Wild South, who enjoy these areas regularly and have for many years (for some of them, all their lives). A number of the parcels in the Talladega Division are literally across the road from an ancestral graveyard containing members of the family of Wild South's founder Lamar Marshall.

Wild South also has a vested and long-standing interest in the protection and enjoyment of rare wildlife species in the National Forests in Alabama. Many species listed as endangered or threatened under the ESA are found in or downstream of the parcels in this Lease Sale. These species include the Red-Cockaded Woodpecker and many aquatic species that can be adversely impacted by even the slightest amount of water contamination. As stated by the FEIS for the Management Plan for these Forests:

"The National Forests in Alabama serve as important habitat reserves for listed aquatic species and biodiversity in general. Geographically, the National Forests encompass less than 3% of the State's land mass but support over 60% of the listed freshwater species.

"There are 25 aquatic federally listed endangered or threatened species associated with the National Forests in Alabama, representing half of all listed species. Listed aquatic species include 14 endangered and 11 threatened species. Mollusks compose nearly 75% of the aquatic listed species with 12 mussels and 6 snails. Additionally, there are six listed fishes and one turtle. According to the species viability assessment, over 50% of the listed aquatic species (14) are rated as being at a high level of risk for loss of population viability. Among those with the highest viability risks include the dark pigtoe, Cumberlandian combshell, oranogenacre mucket, pygmy sculpin, and flattened musk turtle."

FEIS at 3-207.

Designated critical habitat for many of these aquatic species also is found in the National Forests in Alabama, including in many of the parcels offered in this proposed Lease Sale. NONE of that critical habitat has been the subject of consultation with the U.S. Fish and Wildlife Service over the potential impacts of oil and gas leasing, exploration and development. Also, NONE of that critical habitat has been given ANY NEPA analysis whatsoever over the potential impacts of oil and gas leasing, exploration and development.

Wild South's staff and members have also invested decades of work with the Forest Service in developing forest-scale restoration plans for each of these forests. Massive exploration and development of oil and gas in these areas, especially when done without the required ESA consultation and NEPA analysis (see below), will damage, if not destroy, the long-term investments being made in restoration of the native forest ecosystems in these forests. A viable and ecologically sustainable Longleaf Pine forest ecosystem cannot be restored in the midst of a field of hundreds of gas wells (and each well's pad, roads, pipeline, powerline, etc.) spaced on a grid as small as one well per 40 acres, or less.

We intend to sue the Forest Service and the Bureau of Land Management for failing to consult on the leasing of large areas of the National Forests in Alabama for gas exploration and drilling and for failing to consult over this level of exploration and gas development during the development of the Forest Management Plan for the National Forests in Alabama and the Plan's decision to open the National Forests in Alabama to this level of gas development. We also intend to sue the Forest Service and the BLM under the ESA for failure to comply with section 7 of the ESA in that you are not using your authorities to insure protection of listed threatened and endangered species in regards to this leasing and the failure to consult prior to opening the National Forests in Alabama to this level of gas development.

Under the ESA, your agencies have non-discretionary affirmative duties to act to protect listed species and critical habitat:

- Section 2(c)(1) of the ESA states Federal agencies "shall seek to conserve endangered and threatened species and shall use their authorities in furtherance of the purpose of this Act."
- Section 3(3) of the ESA defines "conserve" to mean, "to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, ... law enforcement"
- Section 7 of the ESA states: "Federal agencies shall ...utilize their authorities in furtherance of the purposes of this chapter by carrying out programs for the conservation of endangered species and threatened species"
- Section 7 continues, "Each Federal agency shall ... insure that any action authorized, funded, ... is not likely to jeopardize the continued existence of any

endangered species or threatened species or result in the destruction or adverse modification of habitat of such species which is determined by the Secretary ... to be critical”

We also intend to sue for the failure to conduct ANY NEPA analysis on this leasing of the National Forests in Alabama. It should be noted that the Plan FEIS failed to conduct the proper NEPA analysis required for the leasing permitted by the Forest Service and BLM in this case. As stated in the FEIS:

“In the next ten years, the RFD (updated Reasonable Foreseeable Development Scenario) predicts that one oil/gas well will be drilled on the Bankhead Forest, one on the Talladega Forest, and 10 (one per year) on the Conecuh Forest. During the past ten years, there have been no wells drilled on either the Bankhead or Talladega Forests and 11 wells (about one /year) on the Conecuh Forest.”

FEIS at 3-66. Thus, all the analysis that followed was based on the assumption that one, and only one, well would be drilled in the Talladega National Forest (both divisions) during the Plan’s ten-year lifespan and no more than one per year would be drilled in the Conecuh National Forest. The limit of the FEIS’s analysis was: “With an average of three (3) acres of disturbance for each well (1 acre for the access road and 2 acres for the drill pad), about six (6) acres total each year would be disturbed throughout the National Forests in Alabama for oil and gas development.” FEIS at 3-68.

Yet, this proposal here involves hundreds, and potentially more than a thousand, possible wells. The potentially impacted areas reach into the thousands of acres per year, not six. The environmental impacts from such a level of drilling activity in the National Forests in Alabama have simply **NEVER** been identified and analyzed by these agencies as NEPA requires.

Further, the FEIS stated plainly that the Forest Service and BLM thought that the possibility of leasing and drilling on this level was so unlikely that they purposefully and admittedly did not conduct the NEPA review and ESA consultation necessary to cover it. As stated in the FEIS:

“Management Area 3, the Oakmulgee Division of the Talladega National Forest, currently has no mineral activity. Recent past history had the potential for gas exploration with over one hundred producing wells expected. This did not materialize. Market conditions were not conducive and therefore made gas exploration infeasible. The possibility does exist for gas exploration to occur in the future but the probability is considered very low.”

FEIS at 3-16. What was once considered a “very low” probability is now reality, and the agencies have done NONE of the legally mandated requirements under the ESA and NEPA necessary to be prepared for this reality. Therefore, the decision to open the National Forests in Alabama to this level of gas exploration and development and the actual leasing of these areas in the Oakmulgee Division, Talladega Division and Conecuh

and any development of these leases are invalid due to the Forest Service's and BLM's failures to comply with the ESA and NEPA.

Further, without public notice, review or opportunity to comment, the Final Plan added a number of significant and serious new goals, objectives and standards related to oil and gas drilling. Some are very specific, such as "Applications for federal mineral leases, licenses, and permits are processed within 120 days." (Objective 32.1) and "Operations proposed under outstanding and reserved mineral rights are processed within 60 days and 90 days, respectively." (Objective 33.1).

The Plan clearly places oil and gas development above all other uses ("Management Prescriptions, Management Area Direction, and Forest-wide Direction are subject to outstanding and reserved mineral rights." Standard FW-157.) This is a violation of the multiple use principles in the Multiple Use and Sustained Use Act (MUSYA). None of these new goals, objectives or standards were subject to public notice, review and comment, and none of them underwent ANY NEPA analysis.

ALL alternatives had exactly the same area of the Forests open to mineral exploration and development = 92.2%. (FEIS, Table 2-16, page 2-26.) This violates NEPA, as the agency failed to consider an adequate range of alternatives.

The FEIS specifically references and discusses Executive Order 13212, (Actions to Expedite Energy-Related Projects) of May 18, 2001, which was NEVER mentioned in the DEIS. See FEIS at 3-61. This is yet another instance of sandbagging the public by slipping significant new items into the Final Plan and FEIS that were never in the Draft Plan and DEIS for the public to review and comment on. Clearly, the Executive Order, which was issued in May 2001, could have easily been included in the Draft Plan, which was issued in February 2003. Similarly, all the oil and gas drilling materials added into the Final Plan that were not in the Draft Plan were available to the agency when the Draft Plan was released, and there is no reason why the agency could not have include those items in the Draft Plan for public review and comment.

The FEIS also discusses the BLM's RFD for the National Forests in Alabama. The FEIS states:

"The Forest Plan analyzes those areas of the Forest with leasing interest or mineral potential using the 'Reasonable Foreseeable Development Scenario' (RFD) developed by the BLM geologists. This study looked at the long term (10 years) potential for oil and gas development in the study area, and projected the number of wells they anticipated would be drilled during the 10-year period. Under the Revised Forest Plan, the BLM can proceed to issue oil and gas leases in areas where the Plan makes both the availability and the consent decision. The Plan's environmental analysis and documentation for federal oil and gas is more detailed than it is for other leasable minerals because of the two oil and gas lease decisions which are made in the Plan." (FEIS at 3-62.)

It is important to note that this section of the FEIS plainly states that the Final Revised Plan made final, implementable decisions, referencing the "Plan's environmental analysis and documentation for federal oil and gas," but there is **NO** environmental analysis and documentation in the Plan for federal oil and gas leasing. The Plan consents to oil and gas leasing anywhere it is allowed under the plan, which is 92.2% of the Forests.

The FEIS requires that, for limitations placed on the surface activities of drilling by the Forest Service, those limitations will be "considered consistent with the lease rights granted, provided they do not require relocation of proposed operations by more than 200 meters, require that the operations be sited off the leasehold, or prohibit new surface disturbing operations for a period in excess of 60 days in any lease year." (AL FEIS at 3-63.) These limitations severely restrict the agency from preventing damage to surface or aquatic resources when permitting drilling operations; they prevent serious use of directional drilling. **NONE** of this was in the Draft Plan and DEIS, and thus, none of it was subject to public notice, review and comment. There was **NO** NEPA analysis for these limitations, either.

The FEIS has an entire appendix devoted to the limitations and stipulations to be placed on oil and gas drilling and minerals development. (AL FEIS Appendix I.) None of that was in the DEIS and none of it was available for public review and comment, in complete violation of NEPA.

Most of the National Forests should be in category 1 and withdrawn from possible mineral leases and development. Certainly, at the very least, an alternative that withdrew more the Forests from mineral leasing (especially the areas needed for protection of endangered species like the Red-cockaded Woodpecker and areas needed for Longleaf Pine restoration) could have been considered in the FEIS. Such alternatives WERE identified to the Forest Service by Wild South and others, but the agency chose to ignore them, in violation of NEPA. The draft Plan stated, "These lands have either been withdrawn from mineral entry administratively, by law or the Forest has determined that a prescription goal cannot be accomplished if the lands were open to mineral entry." (AL Draft Plan at 2-49.) This statement was then dropped from the Final Plan, without explanation, but it is an admission that the Plan itself, through use of prescriptions, can limit the areas opened for mineral leasing. No law requires that most of the Forests be open to mineral leasing.

Only 7% of the Forests were placed in category 1. The rest of the National Forests where the mineral rights are held by the public are open to mineral leasing and full development under the standards in the Plan. Yet, the vast majority of the lands in these Forests should be withdrawn from mineral entry, because a prescription goal cannot be accomplished if the lands are open to mineral entry. Since most of the lands in these Forests are prescribed for restoration and/or recreation, it will be impossible to meet restoration and recreation goals in the midst of massive active lease development.

The Regional office overrode local decision-making on what is best for these forests. It is clear that local managers who knew these Forests best would indeed placed most of the Forests in category 1 and withdraw them entirely from mineral entry and leasing. But the regional and national offices took over (after the Draft Plan and after the comment period) and kept a Bush Administration drive to drill as much public land as possible viable for these lands that should never have such development. Overriding local knowledge and not having any support for such a decision is arbitrary and capricious. Failing to disclose this plan to push oil and gas drilling without NEPA impacts analysis and without giving the public an opportunity to comment on it are clear NEPA violations. Failure to consider an alternative that opened less of the Forests to mineral leasing was also a clear and egregious NEPA violation.

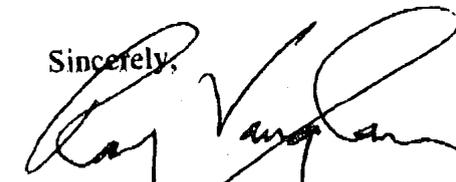
For all these reasons, as well as all those raised in our appeal of the management Plan for the National Forests in Alabama (which is incorporated herein in its entirety by reference), the management Plan itself is invalid, as it relates to oil and gas leasing in the National Forests in Alabama. Upholding our Protest will allow us to avoid Court and our seeking to have the Court to enjoin all use of the Plan for oil and gas leasing.

The address for the party to this letter is as follows:

Wild South
16 Eagle Street, Suite 200
Asheville, NC 28801
(828) 258-2667

We are available to discuss this matter with you. Feel free to contact me about it at any time.

Sincerely,



Ray Vaughan
Attorney for Wild South
wildlaw@aol.com
(334) 221-9668 (cell phone)

cc: Tom Tidwell, Chief, US Forest Service
Jay Jensen, Deputy Under Secretary, USDA



United States Department of the Interior
Bureau of Land Management

Eastern States
7450 Boston Boulevard
Springfield, Virginia 22153
<http://www.es.blm.gov>



October 19, 2009

**NOTICE OF COMPETITIVE LEASE SALE
OIL AND GAS**

In accordance with Federal Regulations 43 CFR Part 3120, the Eastern States Office is offering competitively 212 parcels containing 95,156.36 acres of Federal lands in Alabama, Arkansas and Louisiana, for oil and gas leasing.

This notice provides:

- the time and place of the sale;
- how to register and participate in the bidding process,
- the sale process;
- the conditions of the sale,
- how to file a noncompetitive offer after the sale;
- how to file a presale noncompetitive offer; and
- how to file a protest to our offering the lands in this Notice.

When and where will the sale take place?

When: The competitive oral auction will begin at **10:00 a.m. on December 3, 2009**. The sale room will open at 9:00 a.m. to allow you to register and obtain your bid number.

Where: The sale will be held at the Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, VA 22153. Parking is available.

Access: The sale room is accessible to persons with disabilities. If assistance is needed for the hearing or visually impaired, contact the Minerals Adjudication Team on (703) 440-1727, or at the mailing address on the letterhead of this notice by November 3, 2009.

Information regarding leasing of Federal minerals overlain with private surface, referred to as "Split Estate", is available at the following Washington Office website. A Split Estate brochure is available at this site. The brochure outlines the rights, responsibilities, and opportunities of private surface owners and oil and gas operators in the planning, lease sale, permitting/development, and operations/production phases of the oil and gas program: http://www.blm.gov/bmp/Split_Estate.htm.

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November 16, 2009

Liz Agpaoa, Regional Forester
U.S. Forest Service
1720 Peachtree Road, NW
Atlanta, Georgia 30367-9102

Miera Crawford, Forest Supervisor
National Forests in Alabama
2946 Chestnut St.
Montgomery, Alabama 36107

Bob Abbey, Director
Bureau of Land Management
1849 C Street, NW
Washington, DC 20240

Re: ESA 60-Day Notice Letter on Leasing of Drilling Rights in the National Forests in Alabama, NOTICE OF COMPETITIVE LEASE SALE OIL AND GAS, Dated October 19, 2009 (cover sheet enclosed)

Via Certified Mail, Return Receipt Requested

Dear Regional Forester Agpaoa and Supervisor Crawford:

Wild South hereby provides you with 60-days notice under § 11 of the Endangered Species Act that we intend to sue you, the Forest Service, and the Bureau of Land Management for failing to consult on the leasing of large areas of the National Forests in Alabama for gas exploration and drilling and for failing to consult over this level of exploration and gas development during the development of the Forest Management Plan for the National Forests in Alabama and the Plan's decision to open the National Forests in Alabama to this level of gas development. We also intend to sue you, the Forest Service and the BLM under the ESA for failure to comply with section 7 of the ESA in that you are not using your authorities to insure protection of listed

threatened and endangered species in regards to this leasing and the failure to consult prior to opening the National Forests in Alabama to this level of gas development.

The lease sale will be conducted by the U.S. Department of the Interior's Bureau of Land Management (BLM) on December 3, 2009, in Springfield, Virginia. One-hundred, forty-eight (148) parcels within the National Forests in Alabama (including the Oakmulgee Division of the Talladega National Forest, the Talladega Division of the Talladega National Forest and the Conecuh National Forest) are to be sold, for a total acreage of approximately 71,043.17 acres.

This letter is sent in accordance with § 11(g) of the Endangered Species Act, 16 U.S.C. § 1540(g), which requires that sixty (60) days notice be given prior to the institution of a civil suit under that statute. On behalf of Wild South, we hereby give you notice that, after the expiration of sixty (60) days from the date of this Notice of Intent to Sue, these organizations may file one or more civil actions against the Forest Service and the BLM for violations of the Endangered Species Act and its applicable regulations due to your decisions to open the National Forests in Alabama to this gas exploration and development and the actual leasing of these parcels in the National Forests in Alabama.

Under the ESA, your agencies have non-discretionary affirmative duties to act to protect listed species and critical habitat:

- Section 2(c)(1) of the ESA states Federal agencies "shall seek to conserve endangered and threatened species and shall use their authorities in furtherance of the purpose of this Act."
- Section 3(3) of the ESA defines "conserve" to mean, "to use and the use of all methods and procedures which are necessary to bring any endangered species or threatened species to the point at which the measures provided pursuant to this Act are no longer necessary. Such methods and procedures include, but are not limited to, all activities associated with scientific resources management such as research, ... law enforcement"
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We also intend to sue you for your agency's failure to conduct ANY NEPA analysis on this leasing of the National Forests in Alabama. It should be noted that the Plan FEIS failed to conduct the proper NEPA analysis required for the leasing permitted by the Forest Service and BLM in this case. As stated in the FEIS:

"In the next ten years, the RFD (updated Reasonable Foreseeable Development Scenario) predicts that one oil/gas well will be drilled on the Bankhead Forest, one on the Talladega Forest, and 10 (one per year) on the Conecuh Forest. During the past ten years, there have been no wells drilled on either the Bankhead or Talladega Forests and 11 wells (about one /year) on the Conecuh Forest."

FEIS at 3-66. Thus, all the analysis that followed was based on the assumption that one, and only one, well would be drilled in the Talladega National Forest (both divisions) during the Plan's ten-year lifespan and no more than one per year would be drilled in the Conecuh National Forest. The limit of the FEIS's analysis was: "With an average of three (3) acres of disturbance for each well (1 acre for the access road and 2 acres for the drill pad), about six (6) acres total each year would be disturbed throughout the National Forests in Alabama for oil and gas development." FEIS at 3-68.

Yet, this proposal here involves hundreds, and potentially more than a thousand, possible wells. The potentially impacted areas reach into the thousands of acres per year, not six. The environmental impacts from such a level of drilling activity in the National Forests in Alabama have simply NEVER been identified and analyzed by these agencies as NEPA requires.

Further, the FEIS stated plainly that the Forest Service and BLM thought that the possibility of leasing and drilling on this level was so unlikely that they purposefully and admittedly did not conduct the NEPA review and ESA consultation necessary to cover it. As stated in the FEIS:

"Management Area 3, the Oakmulgee Division of the Talladega National Forest, currently has no mineral activity. Recent past history had the potential for gas exploration with over one hundred producing wells expected. This did not materialize. Market conditions were not conducive and therefore made gas exploration infeasible. The possibility does exist for gas exploration to occur in the future but the probability is considered very low."

FEIS at 3-16. What was once considered a "very low" probability is now reality, and the agencies have done NONE of the legally mandated requirements under the ESA and NEPA necessary to be prepared for this reality. Therefore, the decision to open the National Forests in Alabama to this level of gas exploration and development and the actual leasing of these areas in the Oakmulgee Division, Talladega Division and Conecuh and any development of these leases are invalid due to the Forest Service's and BLM's failures to comply with the ESA and NEPA.

Further, without public notice, review or opportunity to comment, the Final Plan added a number of significant and serious new goals, objectives and standards related to oil and gas drilling. Some are very specific, such as "Applications for federal mineral leases, licenses, and permits are processed within 120 days." (Objective 32.1) and "Operations proposed under outstanding and reserved mineral rights are processed within 60 days and 90 days, respectively." (Objective 33.1).

The Plan clearly places oil and gas development above all other uses ("Management Prescriptions, Management Area Direction, and Forest-wide Direction are subject to outstanding and reserved mineral rights." Standard FW-157.) This is a violation of the multiple use principles in the Multiple Use and Sustained Use Act (MUSYA). None of these new goals, objectives or standards were subject to public notice, review and comment, and none of them underwent ANY NEPA analysis.

ALL alternatives had exactly the same area of the Forests open to mineral exploration and development = 92.2%. (FEIS, Table 2-16, page 2-26.) This violates NEPA, as the agency failed to consider an adequate range of alternatives.

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The FEIS requires that, for limitations placed on the surface activities of drilling by the Forest Service, those limitations will be "considered consistent with the lease

rights granted, provided they do not require relocation of proposed operations by more than 200 meters, require that the operations be sited off the leasehold, or prohibit new surface disturbing operations for a period in excess of 60 days in any lease year." (AL FEIS at 3-63.) These limitations severely restrict the agency from preventing damage to surface or aquatic resources when permitting drilling operations; they prevent serious use of directional drilling. **NONE** of this was in the Draft Plan and DEIS, and thus, none of it was subject to public notice, review and comment. There was **NO** NEPA analysis for these limitations, either.

The FEIS has an entire appendix devoted to the limitations and stipulations to be placed on oil and gas drilling and minerals development. (AL FEIS Appendix I.) None of that was in the DEIS and none of it was available for public review and comment, in complete violation of NEPA.

Most of the National Forests should be in category 1 and withdrawn from possible mineral leases and development. Certainly, at the very least, an alternative that withdrew more the Forests from mineral leasing (especially the areas needed for protection of endangered species like the Red-cockaded Woodpecker and areas needed for Longleaf Pine restoration) could have been considered in the FEIS. Such alternatives WERE identified to the Forest Service by Wild South and others, but the agency chose to ignore them, in violation of NEPA. The draft Plan stated, "These lands have either been withdrawn from mineral entry administratively, by law or the Forest has determined that a prescription goal cannot be accomplished if the lands were open to mineral entry." (AL Draft Plan at 2-49.) This statement was then dropped from the Final Plan, without explanation, but it is an admission that the Plan itself, through use of prescriptions, can limit the areas opened for mineral leasing. No law requires that most of the Forests be open to mineral leasing.

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The Regional office overrode local decision-making on what is best for these forests. It is clear that local managers who knew these Forests best would indeed placed most of the Forests in category 1 and withdraw them entirely from mineral entry and leasing. But the regional and national offices took over (after the Draft Plan and after the comment period) and kept a Bush Administration drive to drill as much public land as possible viable for these lands that should never have such development. Overriding local knowledge and not having any support for such a decision is arbitrary and capricious. Failing to disclose this plan to push oil and gas drilling without NEPA impacts analysis and without giving the public an opportunity to comment on it are clear

NEPA violations. Failure to consider an alternative that opened less of the Forests to mineral leasing was also a clear and egregious NEPA violation.

Designated critical habitat for many of these aquatic species also is found in the National Forests in Alabama, including in many of the parcels offered in this proposed Lease Sale. NONE of that critical habitat has been the subject of consultation with the U.S. Fish and Wildlife Service over the potential impacts of oil and gas leasing, exploration and development. Also, NONE of that critical habitat has been given ANY NEPA analysis whatsoever over the potential impacts of oil and gas leasing, exploration and development.

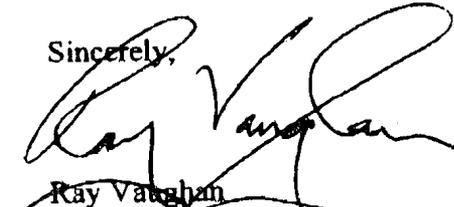
For all these reasons, as well as all those raised in our appeal of the management Plan for the National Forests in Alabama (which is incorporated herein in its entirety by reference), the management Plan itself is invalid, as it relates to oil and gas leasing in the National Forests in Alabama. We will seek to have the Court to enjoin all use of the Plan for oil and gas leasing.

The address for the party to this letter is as follows:

Wild South
16 Eagle Street, Suite 200
Asheville, NC 28801
(828) 258-2667

During the sixty (60) day notice period and thereafter, we will be available to discuss this matter with you. Feel free to contact me about it at any time. We are also filing a Protest with the BLM prior to this Lease Sale (enclosed).

Sincerely,



Ray Vaughan
Attorney for Wild South
wildlaw@aol.com
(334) 221-9668 (cell phone)

cc: Tom Tidwell, Chief, US Forest Service
Jay Jensen, Deputy Under Secretary, USDA
Ken Salazar, Secretary of the Interior