

Appendix P — Review of Leases, Lease Notices and Lease Stipulations

Leases

Within the limits of applicable laws and regulations, oil and gas leases grant the lessee the right to use the leased land as needed to explore for, drill for, extract, remove, and dispose of oil and gas deposits located under the leased lands. Subsequent approvals are required before the lessee can disturb the surface in exercise of lease rights. Standard lease terms (SLT) and special stipulations attached to the leases restrict the rights contained therein. Operations are required, by lease terms and stipulations, to minimize adverse impacts to the land, air, water, cultural, biological, and visual elements of the environment, as well as other land uses or users. Additional protective measures are contained in the Onshore Oil and Gas Operations regulations (43 CFR 3160), associated Onshore Orders, and published Notices to Lessees.

Special stipulations attached to leases generally fall into the following three categories:

- *No Surface Occupancy (NSO)* — Neither exploration nor production facilities (for example, well pads, drilling rigs, and CMFs) would be allowed to be constructed.
- *Controlled Surface Use (CSU)* — Surface occupancy and use are permitted, but are restricted to mitigate effects to particular resources. The CSU stipulation provides for mitigation measures that would not normally be met by relocating the drilling site the 656 feet (200 meters) provided by the SLT.
- *Timing Limitations (TL)* — Construction activities would be restricted or prohibited during certain periods to protect resources. The TL stipulation provides for mitigation measures that would not normally be met by delaying surface-disturbing operations for the 60 days each year provided by the SLT.

Lease Notices Applied by BLM

In addition to lease stipulations, lease notices (LN) may be attached to a lease to convey certain operational, procedural, or administrative requirements within the standard terms and conditions of the lease that are designed to alert the lessee of issues or values of special concern. Currently, BLM applies only one LN to leases in the PRB.

Lease Notice No. 1

The lands within this lease may include areas not specifically addressed by lease stipulations that may contain special values, may be needed for special purposes, or may require special attention to prevent damage to surface and other resources. Possible special areas are identified below. Any surface use or occupancy within such special areas will be strictly controlled or, if absolutely necessary, prohibited. Appropriate modifications to imposed restrictions will be made for the maintenance and operation of producing wells.

1. Slopes in excess of 25 percent.
2. Within 500 feet of surface water and/or riparian areas.
3. Construction with frozen material or during periods when the soil material is saturated or when watershed damage is likely to occur.
4. Within 500 feet of interstate highways and 200 feet of other existing rights-of-way (U.S. and state highways, roads, railroads, pipelines, and power lines).
5. Within $\frac{1}{4}$ mile of occupied dwellings.
6. Material sites.

The intent of this notice is to inform interested parties (potential lessees, permittees, operators) that when one or more of the above conditions exist, surface disturbing activities will be prohibited unless or until the permittee or the designated representative and the surface management agency (SMA) arrive at an acceptable plan for mitigation of anticipated impacts. This negotiation will occur before development and becomes a COA when authorizing the action.

Specific threshold criteria (for example, 500 feet from water) have been established based upon the best information available. However, geographical areas and time periods of concern must be delineated at the field level (“surface water and/or riparian areas” may include both intermittent and ephemeral water sources or may be limited to perennial surface water).

The referenced oil and gas leases on these lands are hereby made subject to the stipulation that the exploration or drilling activities will not interfere materially with the use of the area as a materials site/free use permit. At the time operations on the above lands are commenced, notification will be made to the appropriate agency. The name of the appropriate agency may be obtained from the proper BLM Field Office.

Lease Notices Applied by the FS

Currently, the FS applies two LNs to leases on the TBNG. One LN is for cultural and paleontological resources and the second is for endangered and threatened species. Both LNs are described below:

Cultural and Paleontological Resources

The FS is responsible for assuring that the leased lands are examined to determine if cultural resources are present and to specify mitigation measures. Before

undertaking any surface-disturbing activities on the lands covered by this lease, the lessee or operator, unless notified to the contrary by the FS, shall:

1. Contact the FS to determine if a site-specific cultural resource inventory is required. If a survey is required, then:
2. Engage the services of a cultural resource specialist acceptable to the FS to conduct a cultural resource inventory of the area of proposed surface disturbance. The operator may elect to inventory an area larger than the area of proposed disturbance to cover possible site relocation that may result from environmental or other considerations. An acceptable inventory report is to be submitted to the FS for review and approval at the time a surface-disturbing plan of operation is submitted.
3. Implement mitigation measures required by the FS and BLM to preserve or avoid destruction of cultural resource values. Mitigation may include relocation of proposed facilities, testing, salvage, recordation or other protective measures. All costs of the inventory and mitigation will be borne by the lessee or operator, and all data and materials salvaged will remain under the jurisdiction of the U.S. Government as appropriate.

The lessee or operator shall immediately bring to the attention of the FS and BLM any cultural or paleontological resources or any other objects of scientific interest discovered as a result of surface operations under this lease and shall leave such discoveries intact until directed to proceed by FS and BLM.

Endangered or Threatened Species

The FS is responsible for assuring that the leased land is examined prior to undertaking any surface-disturbing activities to determine effects upon any plant or animal species listed or proposed for listing as endangered or threatened, or their habitats. The findings of this examination may result in some restrictions to the operator's plans or even disallow use and occupancy that would be in violation of the ESA by detrimentally affecting endangered or threatened species or their habitats.

The lessee or operator may, unless notified by the FS that the examination is not necessary, conduct the examination on the leased lands at his discretion and cost. This examination must be done by or under the supervision of a qualified resource specialist approved by the FS. An acceptable report must be provided to the FS identifying the anticipated effects of a proposed action on endangered or threatened species or their habitats.

Leases Stipulations

Existing federal oil and gas leases within the Project Area contain various stipulations concerning surface disturbance, surface occupancy, limited surface use, and timing (seasonal) restrictions. These lease stipulations provide for the imposition of such reasonable conditions, not inconsistent with the purposes for which the lease was issued, as the BLM and or FS may require to protect the surface of

the leased lands and the environment. BLM and the FS have applied a variety of stipulations to oil and gas leases on federally administered lands within the Project Area. Although similarities exist, the stipulations vary by management area (BFOA, CFOA, and TBNG). The stipulations currently being applied to leases within each management area are discussed below. These stipulations would continue to be used.

Every two months, each BLM Field Office receives a list of lease parcels proposed for sale. Each parcel is reviewed by resource specialists for compliance with the RMP and a determination of NEPA adequacy. Each parcel is reviewed and pertinent lease notices and/or lease stipulations are attached.

This information is sent to the Wyoming State Office mineral leasing section to be included in the next competitive sale auction held in Cheyenne. A company that successfully bids on and obtains a lease parcel is mandated to comply with the stipulations contained on the lease unless the company receives written exception, modification, or waiver of the lease stipulations. Additionally a company is mandated to comply with federal mandates such as the Historic Preservation Act and ESA should these resources be identified before or during construction.

Buffalo Field Office Area

This section lists the stipulations that have been and would continue to be applied and a short explanation of the reasons for each stipulation.

Resource: **Special Management Areas**

Stipulation: No Surface Occupancy

Objective: To preclude surface-disturbing activities or occupancy within special management areas, such as state big game winter ranges, Red Wall, Hole-in-the-Wall, Middle Fork Canyon, Petrified Tree, Fortification Creek, Cantonment Reno, and Dullknife Battlefield.

Waiver: A waiver may be granted if it is determined that the action could occur without causing significant adverse impacts.

Exception: None.

Modification: None.

Justification: Each of these areas contains one or a combination of important resources such as wildlife habitat, wildlife diversity, high visual quality, and significant cultural, historic, or paleontological values.

The Fortification Creek Special Management Area (FCSMA), approximately 25 miles northwest of Gillette, has had mitigation measures established since 1980. In 1980, BLM completed a programmatic oil and gas environmental assessment for the BFOA. The FCSMA was included in that EA. The EA described specific mitigation for development of oil and gas resources in the FCSMA. The

objective was to protect wildlife, scenic, recreational, and cultural values in the area. The mitigation measures were as follows:

1. No surface occupancy on slopes of 25 percent or more.
2. Power lines will be buried.
3. No surface disturbance in elk calving grounds May 1 to June 30.
4. No surface disturbance in elk critical winter range from November 30 to April 30.
5. Replacement of trees removed with containerized seedlings.
6. Barricading rehabilitated access roads to prevent vehicular travel.
7. Muffling engines so that noise levels do not exceed 86 decibels at 50 feet.

The FCSMA includes both public and split estate lands. Private surface and mineral lands and State of Wyoming lands are also within the boundary. The mitigation measures did not apply to private and state lands.

In 1982, the Fortification Creek Oil and Gas EA was completed and provided more detail regarding management of the area.

Specific stipulations that were carried forward from the 1980 and 1982 EAs into the 1985 RMP were as follows:

1. Timing stipulation – elk crucial winter range (26,000 acres) No surface disturbance in elk critical winter range from November 30 to April 30.
2. No surface occupancy – elk parturition (calving) areas (approximately 5,700 acres)

The Fortification Creek Wilderness Study Area was also established in the early 1980s. The WSA contained “interim management” guidelines, which are still in effect until such time as Congress acts on this proposal. The WSA lies within the FCSMA. Interim management called for no oil and gas leasing on those lands within the boundary of the WSA.

Based on the need to standardize oil and gas stipulations and direction from the Wyoming State Office, in 1990, RMPs throughout the state were amended to incorporate the standard mitigation guidelines. This action was to provide consistency in lease stipulations throughout the state. At that time, the controlled surface use stipulation was applied to the FCSMA.

CSU (1) Surface occupancy or use within the FCSMA will be restricted or prohibited unless the operator and surface managing agency arrive at an acceptable plan for mitigation of anticipated impacts. This may include development and operations and maintenance of facilities; (2) entire lease; (3) protecting elk crucial winter range. (This stipulation would only be applied if new information shows such is needed and is agreed upon by the Field Manager and the RMP is amended.)

In 1995, the WGFDD completed a study using radio-collared elk. The outcome of the study changed the distribution of elk crucial winter, winter yearlong, and par-

turbation areas compared to those identified in the earlier 1980 and 1982 EAs. The areas were expanded as follows:

Timing stipulation – elk crucial winter range (38,234 acres)

Timing stipulation – elk parturition range (59,292 acres).

Controlled Surface Use stipulations **may** include the following “Conditions of Approval” for CBM development:

- All wells would have radio-telemetry monitoring.
- human activity including construction will be during the hours of _____ and _____.
- reclamation will include seed mixtures or potted trees as described in the “conditions of approval.”
- compressors will be adequately muffled or placed so as to minimize disturbance to wildlife and scenic or other values in the area.
- other as appropriate to protect site-specific values.

These CSU measures are applied based upon site-specific characteristics such as tree cover, historic elk use and juxtaposition relative to other surface disturbance or human activities.

Resource: Crucial Elk Winter Range

Stipulation: Timing Limitation

Objective: To preclude new surface-disturbing activities within crucial elk winter range, which could cause increased stress to and/or displacement of animals during the critical time period (November 15 to April 30).

Waiver: A waiver may be granted if new habitat studies in coordination with the WGFD conclude that the area affected by this stipulation is no longer used as winter range. A waiver also may be granted if, after consultation with the WGFD, it is determined that activities within the area would help temporarily disperse the elk from areas of intense use and provide a tool for herd management.

Exception: An exception may be granted if seasonal conditions (for example, an early spring and snowmelt) are such that the elk have moved out of and are not using the general area during the particular year.

Modification: A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as winter range.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 140 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the wintering period would have minimal effects on the elk.

Resource: **Elk Calving**

Stipulation: Timing Limitation

Objective: To preclude new surface-disturbing activities within elk calving areas, which could cause increased stress to and/or displacement of animals during the critical time period (May 1 to June 30).

Waiver: A waiver may be granted if new habitat studies in coordination with the WGFD conclude that the area affected by this stipulation is no longer used as a calving area. A waiver also may be granted if, after consultation with the WGFD, it is determined that activities within the area would help temporarily disperse the elk from areas of intense use and provide a tool for herd management.

Exception: An exception may be granted if seasonal conditions (e.g., an early spring and snowmelt) are such that the elk have moved out of and are not using the general area during the particular year.

Modification: A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as a calving area.

Justification: This stipulation is needed to reduce effects of stress during the calving season.

Resource: **Sage Grouse Breeding Areas**

Stipulation: Controlled Surface Use

Objective: To minimize adverse effects, activities within ¼ mile of a sage grouse strutting/dancing ground will be restricted or prohibited.

Waiver: A waiver may be granted if new habitat studies in coordination with the WGFD conclude that the area affected by this stipulation is no longer used by sage grouse as a breeding area. A waiver also may be granted if the operator and surface management agency arrive at an acceptable plan for mitigation of anticipated effects.

Exception: None.

Modification: A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as a breeding area.

Justification: A CSU stipulation is needed to ensure minimal effects on integrity and use of sage grouse breeding areas. The No Lease option and NSO stipulation were deemed to be overly restrictive be-

cause operations could be conducted outside the 0.25 mile buffer around the breeding area with minimal effects on the sage grouse.

Resource: Sage Grouse Nesting Habitats

Stipulation: Timing Limitation

Objective: To preclude new surface-disturbing activities within sage grouse nesting habitats, an additional 1.75-mile radius would be established beyond the 0.25-mile lek radius, which could cause increased stress to and/or displacement of animals during the critical time period (March 1 to June 15).

Waiver: A waiver may be granted if new habitat studies in coordination with the WGFD conclude that the area affected by this stipulation is no longer used by sage grouse as nesting habitat.

Exception: An exception may be granted if seasonal conditions are such that the sage grouse have moved out of and are not using the general area during the particular year.

Modification: A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as nesting habitat.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 150 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the nesting period would have minimal effects on the sage grouse.

Resource: Sharp-tailed Grouse Breeding Areas

Stipulation: Controlled Surface Use

Objective: To minimize adverse effects, activities within 250 yards of a sharp-tailed grouse strutting/dancing ground will be restricted or prohibited.

Waiver: A waiver may be granted if new habitat studies in coordination with the WGFD conclude that the area affected by this stipulation is no longer used by sharp-tailed grouse as a breeding area. A waiver also may be granted if the operator and surface management agency arrive at an acceptable plan for mitigation of anticipated effects.

Exception: None.

Modification: A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as a breeding area.

Justification: A CSU stipulation is needed to ensure minimal effects on integrity and use of sharp-tailed grouse breeding areas. The No Lease

option and NSO stipulation were deemed to be overly restrictive because operations could be conducted outside the 0.25 mile buffer around the breeding area with minimal effects on the sharp-tailed grouse.

Resource: Sharp-tailed Grouse Nesting Habitats

Stipulation: Timing Limitation

Objective: To preclude new surface-disturbing activities within sharp-tailed grouse nesting habitats, an additional 0.5-mile radius would be established beyond the 250 yard lek radius, which could cause increased stress to and/or displacement of animals during the critical time period (April 1 to May 31).

Waiver: A waiver may be granted if new habitat studies in coordination with the WGFD conclude that the area affected by this stipulation is no longer used by sharp-tailed grouse as nesting habitat.

Exception: An exception may be granted if seasonal conditions are such that the sharp-tailed grouse have moved out of and are not using the general area during the particular year.

Modification: A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as nesting habitat.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extend for about 150 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the nesting period would have minimal effects on the sharp-tailed grouse.

Resource: Raptor Nesting Habitat

Stipulation: Timing Limitation

Objective: To preclude new surface-disturbing activities within 0.5 mile of raptor nest sites, which could cause increased stress to and/or displacement of animals during the critical time period (February 1 to July 31).

Waiver: A waiver may be granted if new habitat studies, in coordination with the WGFD and FWS, conclude that the nest sites affected by this stipulation are no longer used by raptors.

Exception: An exception may be granted if seasonal conditions are such that the raptors have moved out of and are not using the nest sites during the particular year.

Modification: A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as nesting habitat.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 180 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the nesting period would have minimal effects on raptors.

Resource: Bald Eagle Winter Roosts

Stipulation: Timing Limitation

Objective: To preclude new surface-disturbing activities within 1 mile of bald eagle winter roosts, which could cause increased stress to and/or displacement of animals during the critical time period (November 1 to April 1).

Waiver: A waiver may be granted if new habitat studies, in coordination with the WGFD and FWS, conclude that winter roosts affected by this stipulation are no longer used by bald eagles.

Exception: An exception may be granted if seasonal conditions are such that the bald eagles have moved out of and are not using the winter roost during the particular year.

Modification: A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as winter roosts.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 150 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the winter period would have minimal effects on bald eagles.

Resource: Bozeman Trail

Stipulation: Controlled Surface Use

Objective: To protect the cultural and scenic values of the Bozeman Trail, activities within ¼ mile or the visual horizon (whichever is closer) of the Bozeman Trail will be restricted or prohibited.

Waiver: A waiver may be granted if the operator and surface management agency arrive at an acceptable plan for mitigation of anticipated effects.

Exception: None.

Modification: None.

Justification: A CSU stipulation is needed to ensure minimal effects on the cultural and scenic values of the Bozeman Trail. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations could be conducted outside the ¼ mile buffer

or visual horizon with minimal effects on the cultural and scenic values of the Bozeman Trail.

Resource: Fortification Creek Special Management Area

Stipulation: Controlled Surface Use

Objective: To protect the wildlife, scenic, and watershed values of the FCSMA.

Waiver: A waiver may be granted if the operator and BLM arrive at an acceptable plan for mitigation of anticipated effects.

Exception: None.

Modification: None.

Justification: A CSU stipulation is needed to ensure minimal effects on the wildlife, scenic, and watershed values in the FCSMA. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations could be conducted and facilities constructed (e.g., buried) with minimal effects on the wildlife, scenic, and watershed values.

Resource: Severe Erosion Hazard Areas

Stipulation: Timing Limitation

Objective: To protect areas with severe erosion hazards from erosion.

Waiver: Surface-disturbing activities will be prohibited unless or until the permittee or the designated representative and the BLM arrive at an acceptable plan for mitigation of anticipated impacts.

Exception: None.

Modification: None.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period may extend for much more than 60 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive.

Resource: Threatened and Endangered Species

Stipulation: Controlled Surface Use – The lease area may now or hereafter contain plants, animals, or their habitats determined to be threatened, endangered, or other special status species. BLM may recommend modification to explorations and development proposals to further its conservation and management objectives to avoid BLM-approved activity that will contribute to a need to list such a species or their habitat. BLM may require modification to or disapprove proposed activity that that is likely to result in jeopardy to the continued existence of a proposed or listed threatened or endangered species or result in the destruction or adverse modification of a designated or proposed critical habitat.

BLM will not approve any ground disturbing activity that may affect any such species or critical habitat until it completes its obligations under applicable requirements of the Endangered Species Act as amended, 16 U.S.C. 1531 et seq., including completion of any required procedure for concurrence or consultation.

Objective: To protect Threatened and Endangered Species

Waiver: None

Exception: None

Modification: None

Justification: To meet the requirements of ESA as amended.

Casper Field Office Area

The following are the resource values identified from the Platte River RMP for which stipulations may be applied:

Resource: Sage Grouse Breeding Areas

Stipulation: Controlled Surface Use

Objective: To minimize adverse effects, activities within ¼ mile of a sage grouse strutting/dancing ground will be restricted or prohibited.

Waiver: A waiver may be granted if new habitat studies in coordination with the WGFD conclude that the area affected by this stipulation is no longer used by sage grouse as a breeding area. A waiver also may be granted if the operator and surface management agency arrive at an acceptable plan for mitigation of anticipated effects.

Exception: None.

Modification: A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as a breeding area.

Justification: A CSU stipulation is needed to ensure minimal effects on integrity and use of sage grouse breeding areas. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations could be conducted outside the 0.25-mile buffer around the breeding area with minimal effects on the sage grouse.

Resource: Sage Grouse Nesting Habitats

Stipulation: Timing Limitation

Objective: To preclude new surface-disturbing activities within sage grouse nesting habitats, no surface use is allowed within 1.75 miles

from the 0.25-mile protection zone between March 1 and June 15 so that the nesting area around the strutting and dancing ground can be protected.

Waiver: A waiver may be granted if new habitat studies in coordination with the WGFD conclude that the area affected by this stipulation is no longer used by sage grouse as nesting habitat.

Exception: The authorized officer may authorize exceptions to the time and distance limitations in any particular year.

Modification: A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as nesting habitat.

Justification: A TL stipulation is needed to ensure minimal effects on integrity and use of sharp-tailed grouse nesting areas. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations could be conducted outside the 0.25-mile buffer around the breeding area with minimal effects on the sage grouse.

Resource: Sharp-tailed Grouse Breeding Areas

Stipulation: Controlled Surface Use

Objective: To minimize adverse effects, activities within 0.25 mile of a sharp-tailed grouse strutting/dancing ground will be restricted or prohibited.

Waiver: A waiver may be granted if new habitat studies in coordination with the WGFD conclude that the area affected by this stipulation is no longer used by sharp-tailed grouse as a breeding area. A waiver also may be granted if the operator and surface management agency arrive at an acceptable plan for mitigation of anticipated effects.

Exception: None.

Modification: A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as a breeding area.

Justification: A CSU stipulation is needed to ensure minimal effects on integrity and use of sharp-tailed grouse breeding areas. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations could be conducted outside the 0.25-mile buffer around the breeding area with minimal effects on the sharp-tailed grouse.

Resource: Sharp-tailed Grouse Nesting Habitats

Stipulation: Timing Limitation

- Objective:** To preclude new surface-disturbing activities within sharp-tailed grouse nesting habitats, no surface use is allowed within 1.75 miles from the 0.25-mile protection zone between March 1 and June 15 so that the nesting area around the strutting and dancing ground can be protected.
- Waiver:** A waiver may be granted if new habitat studies in coordination with the WGFD conclude that the area affected by this stipulation is no longer used by sharp-tailed grouse as nesting habitat.
- Exception:** The authorized officer may authorize exceptions to the time and distance limitations, in any particular year.
- Modification:** A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as nesting habitat.
- Justification:** A TL stipulation is needed to ensure minimal effects on integrity and use of sharp-tailed grouse nesting areas. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations could be conducted outside the 0.25-mile buffer around the breeding area with minimal effects on the sharp-tailed grouse.

Resource: Raptor Nesting Habitat

- Stipulation:** Timing Limitation
- Objective:** To preclude new surface-disturbing activities within 0.5 mile of raptor nest sites, which could cause increased stress to and/or displacement of animals during the critical time period (February 1 to July 31).
- Waiver:** A waiver may be granted if a new habitat study, in coordination with the WGFD and FWS, concludes that the nest sites affected by this stipulation are no longer used by raptors.
- Exception:** An exception may be granted if seasonal conditions are such that the raptors have moved out of and are not using the nest sites during the particular year.
- Modification:** A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as nesting habitat.
- Justification:** SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 180 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the nesting period would have minimal effects on raptors.

Resource: Bald Eagle Winter Roosts

- Stipulation:** Timing Limitation

- Objective: To preclude new surface-disturbing activities within 1 mile of bald eagle winter roosts, which could cause increased stress to and/or displacement of animals during the critical time period (November 1 to April 1).
- Waiver: A waiver may be granted if new habitat studies, in coordination with the WGFD and FWS, conclude that winter roosts affected by this stipulation are no longer used by bald eagles.
- Exception: An exception may be granted if seasonal conditions are such that the bald eagles have moved out of and are not using the winter roost during the particular year.
- Modification: A modification of the stipulation may be granted if new habitat studies show that a portion of the area is not used as winter roosts.
- Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extend for about 150 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the winter period would have minimal effects on bald eagles.

Resource: Threatened and Endangered Species

Stipulation: Controlled Surface Use – The lease area may now or hereafter contain plants, animals, or their habitats determined to be threatened, endangered, or other special status species. BLM may recommend modification to explorations and development proposals to further its conservation and management objectives to avoid BLM-approved activity that will contribute to a need to list such a species or their habitat. BLM may require modification to or disapprove proposed activity that that is likely to result in jeopardy to the continued existence of a proposed or listed threatened or endangered species or result in the destruction or adverse modification of a designated or proposed critical habitat. BLM will not approve any ground disturbing activity that may affect any such species or critical habitat until it completes its obligations under applicable requirements of the Endangered Species Act as amended, 16 U.S.C. 1531 et seq., including completion of any required procedure for concurrence or consultation.

Objective: To protect Threatened and Endangered Species

Waiver: None

Exception: None

Modification: None

Justification: To meet the requirements of ESA as amended.

On public lands, surface development will be prohibited on an area from 0.25 to 1 mile of known or discovered nests. The specific distance and dimensions of the area on which surface development will be prohibited will be determined on a case-by-case basis after consultation with the FWS in accordance with the ESA.

Thunder Basin National Grassland

Below are two sets of stipulations for the TBNG. Currently, the area west of the coal outcrop line (the area with potential for CBM) is available for leasing under the 1994 ROD for Oil and Gas Leasing on the TBNG. The area east of the coal outcrop line is available for leasing under the July 2002 ROD on the Revised 2001 TBNG LRMP. The stipulations associated with both LRMPs are presented below.

Current Lease Stipulations under the 1985 LRMP as Revised by the 1994 Oil and Gas Leasing Decision (for the FS lands west of the coal outcrop line)

Resource:	Wildlife
Stipulation:	Timing Limitation
Objective:	To prevent oil and gas activities from causing degradation of the crucial wildlife habitat for LRMP Management Indicator Species, surface occupancy or use is subject to the following operating constraints: <ol style="list-style-type: none">1. No activities shall be allowed within 1 mile of an active bald eagle nest or peregrine falcon nest from February 1 to July 31, if they would cause nesting failure or abandonment.2. No activities shall be allowed within 1 mile of an active bald eagle winter roost site from November 1 to April 1, if they would cause nesting failure or abandonment.3. No activities shall be allowed within 0.25 mile of an active golden eagle nest from February 1 to July 31, if they would cause nesting failure or abandonment.4. No activities shall be allowed within 0.25 mile of an active ferruginous hawk, Swainson's hawk, goshawk, osprey or prairie falcon nest from March 1 to July 31, if they would cause nesting failure or abandonment.5. No activities shall be allowed within 0.25 mile of any rookery from March 1 to July 31, if they would cause abandonment of the rookery, unless specific practices are successfully implemented to maintain or increase the opportunities at other rookery sites.
Waiver:	Waivers will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer's decision will be based on this information.

Exception: Exceptions will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Modification: Modifications will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Justification: LRMP direction pages III–29 through III–36. Allowing development in crucial wildlife habitat for Management Indicator Species without special consideration generates an unacceptable risk of causing habitat degradation. Additionally, law protects many of the Management Indicator Species and the stipulation is to insure compliance with these laws.

Resource: **Wildlife**

Stipulation: Controlled Surface Use

Objective: To prevent degrading crucial wildlife habitat for LRMP Management Indicator Species by oil and gas activities, surface occupancy or use is subject to the following operating constraints:

1. No activities shall be allowed within 0.5 mile of an active bald eagle or peregrine falcon nest at any time if they would cause disturbance of the adult birds on the nest.
2. No activities shall be allowed within 300 feet of any golden eagle, ferruginous hawk, Swainson’s hawk, goshawk, osprey, or prairie falcon nest at any time if they would cause nest abandonment, unless specific practices are successfully implemented to maintain or increase nesting opportunities at other sites. This does not apply to existing surface occupancies.
3. New roads or other developments shall be placed out of sight of the existing raptor nest if possible, unless specific practices are successfully implemented to maintain or increase nesting opportunities.
4. No activities shall be allowed within 0.25 mile of a sage grouse or sharp-tailed grouse lek at any time if they would cause abandonment of the lek, unless specific practices are successfully implemented to maintain or increase the existing habitat capability for grouse.

Waiver: Waivers will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Exception: Exceptions will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Envi-

ronmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Modification: Modifications will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Justification: LRMP direction pages III–29 through III–36. Allowing development in crucial wildlife habitat for Management Indicator Species without special consideration generates an unacceptable risk of causing habitat degradation. Additionally, law protects many of the Management Indicator Species and the stipulation is to insure compliance with these laws.

Resource: **Soil and Water**

Stipulation: Controlled Surface Use

Objective: To prevent landslides and mass soil movements being caused by oil and gas activities, surface occupancy or use is subject to the following operating constraints:

On areas identified as having a high potential for soil mass wasting and on unstable areas with slopes greater than 34 percent but less than 60 percent, no surface occupancy will be allowed unless:

1. No other reasonable alternatives exist, and
2. It is established to the authorized officer’s satisfaction that the site-specific design for the facilities will not cause massive soil movement.

Waiver: Waivers will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Exception: Exceptions will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Modification: Modifications will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Justification: LRMP direction, Page III–58, Item c, page III–59, Items c.1 and c.2. and pages III–74 through III–76. This stipulation applies to areas within the classification of “mass wasting potential areas” and slopes under 60 percent and over 34 percent that are unsta-

ble. Using these areas for the development of the oil and gas resource generates a risk of massive soil movement.

Resource: Soil and Water

Stipulation: Controlled Surface Use

Objective: To prevent oil and gas activities causing a significant and permanent decrease in soil productivity, surface occupancy or use are subject to the following operating constraints:

On areas identified as having a high potential for mass wasting and in riparian areas, no surface occupancy will be allowed unless:

1. No other reasonable alternatives exist, and
2. It is established to the authorized officer’s satisfaction, that the site-specific design for the facilities will not cause massive soil movement.

Waiver: Waivers will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Exception: Exceptions will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Modification: Modifications will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Justification: LRMP direction, Page III–58, Item c, page III–59, Items c.1 and c.2. and pages III–74 through III–76. Areas within the classification of “mass wasting potential areas” and slopes over 34 percent are unstable if disturbed significantly. Using these areas for the development of the oil and gas resources, including roads and pipelines, requires special consideration.

Riparian soils are sensitive and easily damaged. Using these areas for the development of the oil and gas resource, including roads and pipelines, requires special consideration.

Resource: Soil and Water

Stipulation: Controlled Surface Use

Objective: To prevent oil and gas activities from causing degradation of the riparian, playas, floodplains, and wetland values, surface occupancy or use is subject to the following operating constraints:

1. No other reasonable alternatives exist, and

2. It is established to the authorized officer's satisfaction that the development will meet LRMP Standards and Guidelines about riparian, playas, floodplains, and wetland areas.
 - a. Design activities to protect and manage the riparian ecosystem.
 1. Initiate timely and effective rehabilitation of disturbed areas. Restore riparian areas so that a vegetation ground cover or suitable substitute protects the soil from erosion and prevents increased sediment yield.
 2. Maintain the integrity of the ecosystem, including quantity and quality of water.
 - b. Locate oil and gas activities away from the water's edge or outside the riparian areas, playas, wetlands, and floodplains unless alternatives have been assessed and determined to be more environmentally damaging. If necessary to locate activities in these areas, then:
 1. Deposit no waste material (silt, sand, gravel, soil, slash, debris, chemicals, or other material) below high-water lines, in riparian areas, in areas immediately adjacent to riparian areas, or in natural drainage ways (draws, land surface depressions, or other areas where overland flow concentrates and flows directly into streams or lakes).
 2. Prohibit the depositing of soil material from drilling, processing or site preparation in natural drainage ways.
 3. Locate the lower edge of disturbed or deposited soil banks outside the active floodplain.
 4. Prohibit stockpiling of topsoil or any other disturbed soil in the active floodplain.
 5. Locate drilling mud pits outside riparian areas, playas, wetlands, and floodplains. If location is unavoidable in these areas, seal and dike all pits to prevent leakage.
 6. Drain and restore roads, pads, and drill sites immediately after use is discontinued. Revegetate to 80 percent of ground cover in the first year. Provide surface protection during stormflow and snowmelt runoff events.
 7. Avoid constructing roads, drill pads, and tank batteries in or immediately adjacent to riparian areas, playas, wetlands, and floodplains. Facilities will be located a sufficient distance from the water's edge so that sediment entering the water is minimized.
 8. Gravel pits shall be rehabilitated to simulate a natural riparian/aquatic situation if permitted in riparian zones.

9. Do not parallel streams when road location must occur in riparian areas except where absolutely necessary. Cross streams at right angles. Locate crossings at points of low bank slope and firm surfaces.
- c. Riparian areas, playas, floodplains, and wetlands will not exceed a visual quality objective (VQO) of partial retention. This visual management system, as well as the terms partial retention and visual quality objective, are explained in the Forest Service manuals and handbooks.

Waiver: Waivers will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Exception: Exceptions will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Modification: Modifications will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer’s decision will be based on this information.

Justification: LRMP direction pages III–51 through III–53 and pages III–74 through III–76. Riparian areas, playas, floodplains, and wetlands are sensitive. Utilizing them for the development of the oil and gas resource without special consideration causes an unacceptable risk of degradation of their values.

Resource: **Soil and Water**

Stipulation: No Surface Occupancy

Objective: To prevent oil and gas activities from causing landslides and similar massive soil movements, no surface occupancy or use is allowed on the lands described below:

This stipulation is to be applied to the mass wasting potential areas with slopes of or over 60 percent as identified on the Project Map Record for the Oil and Gas Leasing EIS (1:24,000 Soils maps).

In general, larger areas meeting these criteria are located on side slopes of the Rochelle Hills, Miller Hills, Red Hills, HA Divide, Cow Creek Buttes, and portions of the Spring Creek unit. Areas less than 40 acres meeting these criteria are scattered throughout the National Grassland.

Waiver: Waivers will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in

considering the request. The Deciding Officer's decision will be based on this information.

Exception: Exceptions will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer's decision will be based on this information.

Modification: Modifications will be considered in accordance with the requirements of Title 36 Code of Federal Regulations Part 228. Environmental analysis meeting the requirements of NEPA will be conducted in considering the request. The Deciding Officer's decision will be based on this information.

Justification: LRMP direction, Page III-58, Item c, and page III-59, Items c.1. and c.2. Areas with a classification of "mass wasting potential areas" and with slopes over 60 percent are unstable; using these areas for the development of the oil and gas resource causes an unacceptable risk of massive soil movement.

Current Lease Stipulations under the 2001 Revised LRMP, July 2002 ROD (for the FS lands east of the coal outcrop line)

Resource: Water, Wetlands, Woody Draws, Riparian, and Floodplains

Stipulation: Controlled Surface Use

Objective: To protect the biological and hydrologic features, try to locate activities and facilities away from the water's edge and outside the riparian areas, woody draws, wetlands, and floodplains. If necessary to locate facilities in these areas, then:

- Deposit no waste material (silt, sand, gravel, soil, slash, debris, chemical or other material) below high water lines, in riparian areas, in the areas immediately adjacent to riparian areas or in natural drainage ways (draws, land surface depressions or other areas where overland flow concentrates and flows directly into streams or lakes).
- Deposit no soil material in natural drainage ways.
- Locate the lower edge of disturbed or deposited soil banks outside the active floodplain.
- Stockpile no topsoil or any other disturbed soil in the active floodplain.
- Locate drilling mud pits outside riparian areas, wetlands and floodplains. If location is unavoidable in these areas, seal and dike all pits to prevent leakage or use containerized mud systems.

Waivers: This stipulation may be waived if the authorized officer determines the entire leasehold no longer contains any riparian areas, woody draws, wetlands, or floodplains.

Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated.

Modifications: The boundaries of the stipulated area may be modified if the authorized officer determines that portions of the area do not include riparian areas, woody draws, wetlands, and floodplains.

Justification: A CSU stipulation is needed to ensure minimal effects on riparian areas, woody draws, wetlands, and floodplains. The No Lease option or an NSO stipulation were deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on riparian areas, woody draws, wetlands, and floodplains.

Resource: Slopes between 25 and 40 Percent (NSO)

Stipulation: No Surface Occupancy

Objective: To protect soil resources from loss of productivity, erosion, mass movement, and resultant sedimentation, surface occupancy and use is prohibited on slopes between 25 – 40 percent with either highly erodible soils or soils susceptible to mass failure.

Waivers: This stipulation may be waived if the authorized officer determines conditions have changed and the entire leasehold no longer contains any highly erodible soils or soils susceptible to mass failure on slopes between 25 to 40 percent in the leasehold.

Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated.

Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area do not include slopes between 25 to 40 percent with highly erodible soils or soils susceptible to mass failure.

Justification: A CSU stipulation is needed to ensure minimal effects to soils on steep slopes (between 25 and 40 percent). The No Lease option and NSO stipulation were deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on soils.

Resource: Slopes Greater than 40 Percent

Stipulation: No Surface Occupancy

Objective: To protect soil resources from loss of productivity and prevent erosion on steep slopes (greater than 40 percent), soil mass movement, and resultant sedimentation.

- Waivers: This stipulation may be waived if the authorized officer determines conditions have changed and the entire leasehold no longer contains any slopes greater than 40 percent.
- Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated.
- Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area do not include slopes greater than 40 percent.
- Justification: An NSO stipulation is needed to ensure minimal effects on slopes greater than 40 percent. The No Lease option was deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on slopes greater than 40 percent.

Resource: Fossils

- Stipulation: Controlled Surface Use
- Objective: To protect fossils and the immediate environment of the site, including inherent scientific, natural, historic, interpretive, educational, and recreational values for the area potentially affected.
- Waivers: No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.
- Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated.
- Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area do not include significant fossils.
- Justification: A CSU stipulation is needed to ensure minimal effects on significant fossils. The No Lease option or a NSO stipulation was deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on fossils.

Resource: Ferruginous Hawk and Swainson's Hawk Nests

- Stipulation: Timing Limitation
- Objective: To prevent reduced reproductive success, new surface-disturbing activities are prohibited from March 1 through July 31 within 0.5 mile of ferruginous and Swainson's hawk nests.
- Waivers: This stipulation may be waived if the authorized officer determines conditions have changed and all nests within the leasehold or within the stipulated distance from the leasehold are known to have been unoccupied during each of the previous 7 years.
- Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the

proposed action are acceptable or can be adequately mitigated, or if all nests within the leasehold or within the stipulated distance from the leasehold are known to have been unoccupied during each of the previous 7 years.

Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area include nests or nest site(s) known to have been unoccupied during each of the previous 7 years.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 150 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the nesting period would have minimal effects on ferruginous and Swainson's hawks.

Resource: Golden Eagle Nests

Stipulation: No Surface Occupancy.

Objective: To prevent reduced reproductive success, new surface-disturbing activities are prohibited from February 1 through July 31 within 0.5 mile (line of sight) of golden eagle nests.

Waivers: This stipulation may be waived if the authorized officer determines conditions have changed and all nests within the leasehold or within the stipulated distance from the leasehold are known to have been unoccupied during each of the previous 7 years.

Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated, or if all nests within the leasehold or within the stipulated distance from the leasehold are known to have been unoccupied during each of the previous 7 years.

Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area include nests or nest site(s) known to have been unoccupied during each of the previous 7 years.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 180 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the nesting period would have minimal effects on golden eagles.

Resource: Merlin Nests

Stipulation: Timing Limitation

- Objective:** To prevent reduced reproductive success, surface use is prohibited from April 1 through August 15 within 0.5 mile (line of sight) of merlin nests.
- Waivers:** This stipulation may be waived if the authorized officer determines conditions have changed and all nests within the leasehold or within the stipulated distance from the leasehold are known to have been unoccupied during each of the previous 7 years.
- Exceptions:** The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated, or if all nests within the leasehold or within the stipulated distance from the leasehold are known to have been unoccupied during each of the previous 7 years.
- Modifications:** The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area include nests or nest site(s) known to have been unoccupied during each of the previous 7 years.
- Justification:** SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 140 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the nesting period would have minimal effects on merlins.

Resource: Sage Grouse Display Grounds

- Stipulation:** Timing Limitation
- Objective:** To prevent abandonment of display grounds and reduced reproductive success, surface use is prohibited from March 1 through June 15 within 2 miles (line of sight) of a sage grouse display ground, and noise from production facilities must not exceed 49 decibels (10 dBA above background noise) at the display ground.
- Waivers:** This stipulation may be waived if the authorized officer determines conditions have changed and all display grounds within the leasehold or within the stipulated distance from the leasehold have not been used during the past five breeding seasons.
- Exceptions:** The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated. An exception may be granted if the display ground has not been used by May 1 of the current year.
- Modifications:** The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area do not include any display grounds that have been used during the past five breeding seasons.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 107 days, the SLT would not be adequate. The No Lease option or an NSO were deemed to be overly restrictive because operations conducted outside the nesting period would have minimal effects on the sage grouse.

Resource: **Sharp-tailed Grouse Display Grounds (TL) Stipulation**

Stipulation: Timing Limitation.

Objective: To prevent abandonment of display grounds and reduced reproductive success, surface use is prohibited from March 1 through June 15 within 1 mile (line of sight) of a sharp-tailed grouse display ground.

Waivers: This stipulation may be waived if the authorized officer determines conditions have changed and all display grounds within the leasehold or within the stipulated distance from the leasehold have not been used during the past two breeding seasons.

Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated. An exception may be granted if the display ground has not been used by May 1 of the current year.

Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area do not include display grounds that have been used during the last two breeding seasons.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 107 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the nesting period would have minimal effects on the sharp-tailed grouse.

Resource: **Mountain Plover**

Stipulation: Timing Limitation

Objective: To prevent reduced reproductive success, surface use is prohibited from March 15 through July 31 within 0.25 mile (line of sight) of a mountain plover nests or nest aggregation areas.

Waivers: This stipulation may be waived if the authorized officer determines conditions have changed and there are no nests or nest aggregation areas within the leasehold or within the stipulated distance from the leasehold.

Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated. An exception may be granted if the nest or nest aggregation area has not been used by June 10 of the current year.

Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area do not include mountain plover nests and nesting areas.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 140 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the nesting period would have minimal effects on mountain plovers.

Resource: Swift Fox Dens

Stipulation: Timing Limitation

Objective: To prevent den abandonment and reduced reproductive success, surface use is prohibited from March 1 through August 31 within 0.25 mile (line of sight) of swift fox dens.

Waivers: This stipulation may be waived if the authorized officer determines conditions have changed and there are no dens within the leasehold or within the stipulated distance from the leasehold.

Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated.

Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area do not include swift fox dens.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 180 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the denning period would have minimal effects on swift foxes.

Resource: Mountain Plover Habitat

Stipulation: Controlled Surface Use

Objective: To prevent reductions in reproductive success, operations in mountain plover nesting and brooding habitat are subject to the following constraints:

- Limit oil and gas development to no more than one location per 80 acres.
- Suitable mountain plover habitat lost because of new facilities must be replaced within 1 year.
- Access for routine maintenance of oil and gas facilities in mountain plover nesting and brooding habitat will be between 9 a.m. and 5 p.m. This does not apply to emergency repairs.

- If it is necessary to place a new road in a prairie dog colony, align the road to minimize habitat loss.

Waivers: No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions: No conditions for an exception are anticipated, and approval of an exception would be unlikely.

Modifications: The boundary of the stipulated area may be modified if the authorizing officer determines that portions of the area do not contain active prairie-dog colonies.

Justification: A CSU stipulation is needed to ensure minimal effects on mountain plover habitat. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on mountain plovers.

Resource: Mountain Plover Nests and Nesting Areas

Stipulation: No Surface Occupancy

Objective: To prevent reduced reproductive success and adverse habitat loss, no surface occupancy or use is allowed within 0.25 miles of known mountain plover nests or nesting areas.

Waivers: No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.

Exceptions: No conditions for an exception are anticipated, and approval of an exception would be unlikely.

Modifications: The boundary of the stipulated area may be modified if the authorizing officer determines that portions or the area do not contain active black-tailed prairie dogs colonies.

Justification: An NSO stipulation is needed to ensure minimal effects on mountain plover nests and nesting areas. The No Lease option was deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on mountain plover nests and nesting areas.

Resource: Bald Eagle Nests

Stipulation: No Surface Occupancy

Objective: To prevent reduced reproductive success and adverse habitat loss, no surface occupancy or use is allowed within 1 mile (line of sight) of bald eagle nests.

Waivers: This stipulation may be waived if the authorized officer determines conditions have changed and all nests within the leasehold or within the stipulated distance from the leasehold are known to have been unoccupied during each of the previous 7 years.

Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated.

Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area include nests or nest site(s) known to have been unoccupied during each of the previous 7 years. The boundary of the stipulated area may also be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting the eagles.

Justification: An NSO stipulation is needed to ensure minimal effects on bald eagle nests. The No Lease option was deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on bald eagle nests.

Resource: Bald Eagle Winter Roosts

Stipulation: No Surface Occupancy

Objective: To prevent abandonment of winter roost, no surface occupancy or use is allowed within 1.0 mile (line of sight) of bald eagle roosting areas.

Waivers: This stipulation may be waived if the authorized officer determines conditions have changed and winter roosting areas are no longer used within the leasehold or within the stipulated distance from the leasehold.

Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated.

Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area do not include winter roosting areas. The boundary of the stipulated area may also be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting the eagles.

Justification: An NSO stipulation is needed to ensure minimal effects on bald eagle winter roosts. The No Lease option was deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on bald eagle winter roosts.

Resource: Golden Eagle, Merlin, Ferruginous Hawk, Swainson's Hawk, and Burrowing Owl Nests

Stipulation: No Surface Occupancy

Objective: To prevent reduced reproductive success and adverse habitat loss, no surface occupancy or use is allowed within 0.25 mile

(line-of-sight) of golden eagle, merlin, ferruginous hawk, Swainson's hawk, or burrowing owl nests.

Waivers: This stipulation may be waived if the authorized officer determines conditions have changed and all nests within the leasehold or within the stipulated distance from the leasehold are known to have been unoccupied during each of the previous 7 years.

Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated.

Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area include nests or nest site(s) known to have been unoccupied during each of the previous 7 years. The boundary of the stipulated area may also be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting these raptors.

Justification: An NSO stipulation is needed to ensure minimal effects on golden eagle, merlin, ferruginous hawk, Swainson's hawk, and burrowing owl nests. The No Lease option was deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on golden eagle, merlin, ferruginous hawk, Swainson's hawk, and burrowing owl nests.

Resource: Sharp-tailed Grouse and Sage Grouse Display Grounds

Stipulation: No Surface Occupancy

Objective: To prevent abandonment of display grounds, reduced reproductive success, and adverse habitat loss, no surface occupancy or use is allowed within 0.25 mile (line of sight) of a sharp-tailed grouse or sage grouse display ground.

Waivers: This stipulation may be waived if the authorized officer determines conditions have changed and all display grounds within the leasehold or within the stipulated distance of the leasehold have not been used during the last two breeding seasons (sharp-tailed grouse) or five breeding seasons (sage grouse).

Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated.

Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area do not include any display grounds that have been used during the last two breeding seasons (sharp-tailed grouse) or five breeding seasons (sage grouse). The boundary of the stipulated area may also be modified if the authorized officer determines that portions of the area can be occupied without adversely affecting sage grouse and the display grounds.

Justification: An NSO stipulation is needed to ensure minimal effects on sharp-tailed grouse or sage grouse display grounds. The No Lease option was deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on sharp-tailed grouse or sage grouse display grounds.

Resource: Moderate Scenic Integrity Objective (SIO) Areas

Stipulation: Controlled Surface Use

Objective: To maintain the scenic integrity objective (SIO) for areas identified as moderate, surface occupancy and use are subject to operational constraints to maintain a landscape character that is no more than slightly altered. Noticeable deviations must remain visually subordinate to the landscape character being viewed.

Waivers: No conditions for a waiver are anticipated, and approval of a waiver is unlikely.

Exceptions: No conditions for an exception are anticipated, and approval of an exception is unlikely.

Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area do not include moderate SIO areas.

Justification: A CSU stipulation is needed to ensure minimal effects on moderate scenic integrity objective areas. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on moderate scenic integrity objective areas.

Resource: Black-footed Ferret Habitat

Stipulation: Timing Limitation

Objective: To protect black-footed ferrets when breeding and rearing young, surface use is prohibited from March 1 through August 31 within 0.125 mile (line of sight) of prairie dog colonies occupied or thought to be occupied by black-footed ferrets.

Waivers: The authorized officer may grant a waiver if ferret surveys, following protocol approved by the FWS, indicate a low probability that ferrets occur in prairie dog colonies located in the leasehold or if the FWS determines that black-footed ferrets do not occur in the area.

Exceptions: The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated. An exception may be granted if surveys indicate a low probability that ferrets occur in a prairie dog colony where drilling, testing, or new construction is proposed.

Modifications: The boundaries of the stipulated area may be modified if the authorizing officer determines that black-footed ferrets do not occur in portions of the area.

Justification: SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 182 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the critical winter period would have minimal effects on black-footed ferrets breeding and rearing young.

Resource: **Black-footed Ferret Habitat**

Stipulation: Controlled Surface Use

Objective: To prevent adverse impacts to black-footed ferrets or ferret recovery objectives, operations in prairie dog colonies known or thought to be occupied by black-footed ferrets are subject to the following constraints:

- Limit oil and gas development to no more than one location per 80 acres.
- Suitable black-footed ferret habitat lost as a result of new facilities within prairie dog colonies must be replaced within 1 year.
- Access for routine maintenance of oil and gas facilities in prairie dog colonies is limited to daylight hours. This does not apply to emergency repairs.
- If it is necessary to place a new road in a prairie dog colony, align the road to minimize habitat loss.

Waivers: The authorized officer may waive this stipulation if black-footed ferrets are released under an experimental non-essential population status; this stipulation may be waived for areas inside the experimental population area but outside Management Area 3.63.

Exceptions: No conditions for an exception are anticipated, and approval of an exception is unlikely.

Modifications: No conditions for a modification are anticipated, and approval of a modification is unlikely.

Justification: A CSU stipulation is needed to ensure minimal effects on black-footed ferrets or ferret recovery objectives. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on black-footed ferrets or ferret recovery objectives.

Resource: **Black-footed Ferret Reintroduction Habitat**

Stipulation: Controlled Surface Use

- Objective:** To preserve black-footed ferret habitat (Management Area 3.63), operations in all prairie dog colonies are subject to the following constraints:
- Limit oil and gas development to no more than one location per 80 acres.
 - Suitable black-footed ferret habitat lost as a result of new facilities within prairie dog colonies must be replaced within 1 year.
 - Access for routine maintenance of oil and gas facilities in prairie dog colonies is limited to daylight hours. This does not apply to emergency repairs.
 - If it is necessary to place a new road in a prairie dog colony, align the road to minimize habitat loss.
- Waivers:** No conditions for a waiver are anticipated, and approval of a waiver is unlikely.
- Exceptions:** No conditions for an exception are anticipated, and approval of an exception is unlikely.
- Modifications:** No conditions for a modification are anticipated, and approval of a modification is unlikely.
- Justification:** A CSU stipulation is needed to ensure minimal effects on black-footed ferret reintroduction habitat. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations could be conducted in a way that results in minimal effects on black-footed ferret reintroduction habitat.

Resource: Deer, Elk, and Pronghorn Habitat

- Stipulation:** Timing Limitation
- Objective:** To avoid adversely impacting big game winter range, surface use is prohibited from December 15 through March 15 of each year on identified winter range for deer, elk, or pronghorn.
- Waivers:** No conditions for a waiver are anticipated, and approval of a waiver is unlikely.
- Exceptions:** The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated.
- Modifications:** The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area do not include winter range.
- Justification:** SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 89 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the critical winter period would have minimal effects on deer, elk, or pronghorn winter survival.

Resource:	Elk Calving
Stipulation:	Timing Limitation
Objective:	To avoid adversely impacting calving areas during parturition, surface use is prohibited from May 1 through June 31 of each year on identified elk calving areas.
Waivers:	No conditions for a waiver are anticipated, and approval of a waiver would be unlikely.
Exceptions:	The authorizing officer may grant an exception to this stipulation if the operator submits a plan that demonstrates impacts from the proposed action are acceptable or can be adequately mitigated.
Modifications:	The boundaries of the stipulated area may be modified if the authorizing officer determines that portions of the area do not include elk calving areas.
Justification:	SLT provide for delay of activities for up to 60 days. Because the critical period extends for about 61 days, the SLT would not be adequate. The No Lease option and NSO stipulation were deemed to be overly restrictive because operations conducted outside the calving period would have minimal effects on elk reproduction.

Review of the Lease Notices and Stipulations for the Preferred Alternative

Buffalo Field Office Area

Based on review of the information documented in the FEIS, there is no need to modify any of the above lease notices or lease stipulations or develop any new lease notices or lease stipulations to implement the Preferred Alternative. The resource management objectives and protective measures to be accomplished through application of the current lease notices and lease stipulations would still be achievable with the analyzed level of oil and gas development. The social, environmental and economic effects as described in the FEIS were determined based on consideration of the continued use of these lease notices and stipulations. Implementation of the Preferred Alternative would not preclude effective use of the lease notices and lease stipulations.

Casper Field Office Area

Based on review of the information documented in the FEIS, there is no need to modify any of the above lease notices or lease stipulations or develop any new lease notices or lease stipulations to implement the Preferred Alternative. The resource management objectives and protective measures to be accomplished through application of the current lease notices and lease stipulations would still be achievable with the analyzed level of oil and gas development. The social, environmental and economic effects as described in the FEIS were determined based on consideration of the continued use of these lease notices and stipulations.

tions. Implementation of the Preferred Alternative would not preclude effective use of the lease notices and lease stipulations.

Thunder Basin National Grassland

Based on review of the information documented in the FEIS, there is no need to modify any of the above lease notices or lease stipulations or develop any new lease notices or lease stipulations to implement the Preferred Alternative. This analysis did not identify a need to modify or add any lease stipulations to the 2001 Revised TBNG LRMP in order to implement the Preferred Alternative. Within the analyzed level of oil and gas development, resource management objectives for the TBNG LRMP will be achieved. Unique aspects of CBM will be adequately mitigated using COA and existing lease stipulations, lease notices, and current land use allocations in the 2001 Revised TBNG LRMP.