



**RECORD OF DECISION
OIL & GAS LEASING
U.S. FOREST SERVICE
WYOMING RANGE
BRIDGER-TETON NATIONAL FOREST
SUBLETTE COUNTY, WYOMING**

DECISION

I have decided to select Alternative 1, not authorizing the Bureau of Land Management (BLM) to offer 35 lease parcels located within the Wyoming Range and totaling 44,720 acres, at this time. This decision supersedes prior Forest Service decisions made in June 2005 to authorize BLM to offer these lease parcels (See Final Supplemental Environmental Impact Statement (FSEIS) Appendix E).

BACKGROUND

The Forest Service determined in the *Bridger-Teton National Forest Land and Resource Management Plan* (Forest Plan) adopted on March 2, 1990 that the subject land would be administratively available for oil and gas leasing, subject to certain constraints, in accordance with 36 CFR 228.102. The Forest Plan also contains goals, objectives, standards, and guidelines that impose further limitations on activities that may affect surface resources, such as operations and development related to oil and gas leases. This decision and the supporting environmental analysis was reviewed, and some of the constraints on oil and gas leasing activities further refined for each of the involved Management Areas in three environmental assessments and Decision Notices prepared in 1990, 1991 and 1993. Then in January and February of 2004, the Forest Service completed a *Supplemental Biological Assessment*, *Supplemental Biological Evaluation*, and a *Supplemental Information Report*, determining that no further environmental analysis would be needed to authorize BLM to offer the subject lands for lease.

On June 15, 2005, the Forest Service authorized the BLM to offer the subject lands for lease with specified stipulations in accordance with 36 CFR 228.102(e). In December 2005, and April, June and August of 2006, the BLM offered 35 parcels for sale (44,720 acres) covering the subject lands, and identified successful bidders for the parcels. Protests were lodged with the BLM and protests were denied for twelve of the lease parcels (20,963 acres). Leases were issued for these twelve parcels in April and June, 2006. BLM's decisions to deny protests of the 12 leases were appealed to the Interior Board of Land Appeals (IBLA). The IBLA stayed BLM's decisions denying the protests, which resulted in a decision by BLM to suspend operations on the leases pending a final decision on the appeals. The IBLA found that the Appellants had established that they were likely to succeed on the merits of their claims regarding the adequacy of the Forest Service environmental analyses relied upon by the BLM in making its leasing decisions. At the

request of the BLM, its decisions were remanded back to the BLM to provide opportunity to address deficiencies in the environmental analyses. Deficiencies specifically noted were proper disclosure of impacts of lease development to air quality and Canada lynx (IBLA 2006-184, IBLA 2006-208). In requesting the remand, BLM indicated that leases issued with an inadequate analysis of potential environmental effects under the *National Environmental Policy Act* (NEPA) are voidable, and that any subsequent decision regarding dispensation of leases on these parcels would be based upon any supplemental or remedial analysis that is completed. The IBLA stated that the purpose of the remand was to restore to BLM jurisdiction to take appropriate action following further analysis on remand. Twenty-three leases (23,757 acres) have still not been issued while protests remain pending¹.

The Supplemental Environmental Impact Statement (SEIS) upon which this decision is based includes analysis of all subject parcels (44,720 acres) and addresses the deficiencies in prior analyses identified by the IBLA as well as other potential effects identified through scoping and public comment. Because the IBLA indicated that the environmental analyses relied upon by the agencies in making past decisions likely did not take the requisite hard look at some of the potential effects of these leases, the agencies decided to prepare a SEIS to insure that potential effects were fully considered before the Forest Service made a decision as to whether or not leasing is appropriate on these lands.

Added to the issues not adequately addressed in 2004, are new information and a number of circumstances that have changed substantially since that time. The new information and changed circumstances include: additional research data on and confirmed presence of Canada lynx specific to the analysis area; rapid and continually expanding energy development in the Upper Green River Basin. Examples include the Jonah Field, the Pinedale Anticline, and the LaBarge Platform. The BLM originally authorized the drilling of 450 wells in the Jonah Field. The BLM subsequently authorized the drilling of 3,100 additional wells in the Jonah Field. Currently 2,037 wells have been drilled in the Jonah Field. BLM originally authorized the drilling of 750 wells in the Pinedale Anticline. The BLM subsequently authorized the drilling of 4,400 additional wells in the Pinedale Anticline. Currently, 3,049 wells have been drilled. Currently, 2,940 wells have been drilled in the LaBarge Platform. BLM is analyzing a proposal to drill 1,000 additional wells in the LaBarge Platform. Other issues include the state of Wyoming request for designation of Sublette and parts of Lincoln and Sweetwater Counties as nonattainment areas for *National Ambient Air Quality Standards* for ozone; documented visibility impairment in nearby Class I areas; U. S. Fish and Wildlife Service designation of the area as critical habitat for Canada lynx; continued downward trend in the mule deer population; increased recreation use of the Bridger-Teton National Forest; and the cumulative effects to mule deer habitat and demand for undeveloped recreation from private property development in Sublette County for residential subdivisions, community/recreation centers, and resorts. These changes are described in FSEIS Chapter 3, "Affected Environment", and implications for cumulative effects are described in FSEIS Chapter 4, "Environmental Effects".

¹ On August 21, 2009, BLM determined that it would not accept high-bidders' offers for these pending parcels. Some of the high bidders appealed this decision to the IBLA, and in March and April 2010, IBLA Decisions and Orders set aside and remanded BLM's decision finding that it was not supported by a rational and defensible basis for taking such action. See, e.g. Stanley Energy, 179 IBLA 8 (2010).

DECISION RATIONALE

No single factor has led me to this decision. Rather, it is the combination of the sensitivity and values of the area, the magnitude of other activities currently underway or planned with potentially cumulative impacts, and the concerns of citizens, organizations, and other agencies.

The Supplemental Environmental Impact Statement has provided significant information that was not available in 2005 when the Forest Service authorized BLM to offer these lands for lease and in 2005-2006 when BLM sold the leases. Today there are new conditions that did not exist at that time, and there are potential effects from leasing that were not adequately analyzed previously. After careful review of the SEIS, my reasons for selecting this alternative include both the potential direct and indirect environmental impacts from oil and gas development that would be authorized by leasing and, even more importantly, the potential for broader cumulative impacts when this leasing and its connected actions are added to impacts currently existing and reasonably foreseeable for the area from ongoing or planned activities. In addition, my decision responds to the overwhelming public comments and recommendations from comments provided over the past several years. These reasons are explained in further detail below.

Effects on Canada Lynx

Potential for effects on Canada lynx, a threatened species which is well documented as present (historically and currently, FSEIS pg. 3-77) in the Wyoming Range, is a key consideration in my decision. The environmental analysis underscores the importance of the lease parcel and surrounding area for virtually all aspects of the lynx life cycle (FSEIS pg. 3-88). The determinations of effects on Canada lynx for action alternatives are as follows: action alternatives 2, 3 and 2 Reduced *may affect and are likely to adversely affect* Canada lynx and alternatives 3 Reduced and 4 *may affect but are not likely to adversely affect* Canada lynx (FSEIS pgs. 4-118 to 4-121). With regard to effects on designated critical habitat for Canada lynx the determinations for action alternatives are: alternatives 2, 3, 2 Reduced and 3 Reduced *may affect and are likely to adversely affect* designated critical habitat for Canada lynx while Alternative 4 *may affect but is not likely to adversely affect* designated critical habitat (FSEIS pgs. 4-121 to 4-122).

Key contextual considerations from the analysis include: The Wyoming Range is identified by U.S. Fish and Wildlife Service as a “core” area, which is defined as an area with the strongest long-term evidence of persistence of lynx populations, in their lynx recovery outline (FSEIS pg. 3-77). Canada lynx in the Wyoming Range are immensely significant to conservation because they are the southern-most naturally occurring lynx in North America (FSEIS pg. 3-85). The analysis area lies within Unit 5 (Greater Yellowstone Area (GYA), considered currently occupied by lynx) designated as critical habitat by U.S. Fish and Wildlife Service in February of 2009 (FSEIS pg. 3-86). The Wyoming Range is considered some of the most essential habitat for lynx in Wyoming, based on historic abundance of lynx in the area, known den sites, snowshoe hare abundance, and continuous documentation of lynx presence (FSEIS pg. 3-77). The northern portion of the parcels under consideration is directly adjacent to the Hoback Rim and the Eagle Prospect Noble Basin Project proposal for 3 exploratory and 134 development wells, and provides important lynx habitat and population connectivity through vegetation labeled as the “Bondurant Corridor” (FSEIS pg. 3-84). Documented movements of lynx through this area

demonstrate that habitat in the Wyoming Range is identified and used by dispersing lynx and that this area may represent an important site for colonization (FSEIS pg. 3-86). The Hoback Rim and eastern front of the Wyoming Range are unique for lynx in terms of prey base with snowshoe hare densities much greater than other surveyed locations in the BTNF (FSEIS pg. 3-83). Also suitable winter and associated denning habitat within the GYA occurs in fragmented parcels (estimated 12% of the entire area) and although this habitat unit contains over 6 million acres, not all the habitat is equally valuable for lynx. Habitat within Horse, Cottonwood and Beaver Creeks (northern and middle lease blocks) has been identified as one of 3 key use areas by recent research (FSEIS pg. 3-86).

Potential effects to Canada lynx from the action alternatives described in the FSEIS include direct habitat loss and/or alteration from well pad, road, and compression site construction. These changes in habitat make the areas no longer functional in any capacity for habitat, and there is no potential for it to become functional for forty or more years in the event of producing wells. In addition, there would be indirect habitat loss/alteration within some radius of these due to avoidance beyond just the footprint of infrastructure. The proposed activities present the potential for short-term and long-term negative effects to a relatively small but extremely important area of lynx habitat. The potential habitat impact may be more significant to lynx utilizing the northern block of leases where habitat is limited. Because of the known presence of lynx, potential exposure to disturbance is very likely. As discussed in the SEIS, the nature of oil and gas exploration and development is different than some other types of forest activity because it involves 24 hour noise and continuous human activity and vehicle traffic (70-75 truckloads to move a typical drill rig to a site) for up to 7.5 months if developing a well. This activity outside "normal operating hours" may preclude use of nearby habitats, which are limited in portions of the area due to past wildfire. Based on findings that lynx have and continue to be poached, typically from open roads, the increased roading (both increased use of existing roads and creation of new roads) increases risk for mortality. The analysis does state that once the exploration and development phase has passed, it is anticipated that lynx would utilize habitat adjacent to the developed sites. However, given that the effects to individual lynx described above may have population level consequences to the GYA population, which is perhaps less than 7 individuals (FSEIS pg. 4-114) and is particularly vulnerable because of low densities and distance to primary populations (all near the Canadian border), I cannot justify the risk of unacceptable adverse effects which could result from commitments made through leasing these parcels at this time.

Potential mitigations which could be implemented at the *Application for Permit to Drill* phase are discussed in the FSEIS (pg. 4-115). It cannot be determined whether most of the listed mitigations would be feasible or apply or whether they would be sufficient to significantly reduce the potential for adverse effects to lynx at this phase of analysis without more details of proposed activities. For some of the other species addressed in the FSEIS, surveys and nest/den site protections would greatly reduce potential effects. These same protections/mitigations are not likely sufficient for lynx for several reasons: the crucial importance of the habitat in and surrounding the lease parcels; the very low population level; large home ranges; and difficulty in timely discovery of den sites. Lynx are also vulnerable to poaching, which is not true of many of the other species for which surveys and protections would likely be adequate to mitigate the effects of the proposed activities.

Effects on Mule Deer

Cumulative effects to mule deer are an important consideration in my decision. In this case, direct and indirect effects alone of oil and gas development (habitat loss from pad, road, and compression site construction, disturbance from vehicles and human activity, road avoidance and reduction of habitat security, and disruption of spring and fall migration activity and routes) for the five action alternatives would affect individuals but are not deemed substantial enough to affect the Forest-wide population trend. However these effects when combined with the effects of already on-going and reasonably foreseeable activities could affect population trend and are cause for concern. The project area is primarily mule deer spring/summer/transition habitat and they also migrate through and around the project area going to and from winter range. The cumulative effects area includes habitat in all the seasonal ranges (summer, transition/migration and crucial winter range) which are vitally important to the Green River Basin mule deer population. (FSEIS pg. 4-128). "Protecting migration routes and conserving seasonal ranges" is believed to be "essential to the long-term maintenance" of the Green River Basin mule deer population. Mule deer can take up to 3 months to move from summer habitat to winter range, and may spend a total of 4-5 months in transition habitats. This means the habitat along the migration route and transition habitats are providing essential forage for them for up to a third of the year. This habitat supports them during key phases of their life cycle. As they migrate from winter ranges, their bodies are in poorer condition and pregnant does are supporting the rapidly growing fetus. In the fall, their need for nutrition is also high to allow them to arrive on the winter range in the best possible condition (FSEIS pg. 4-128). In addition, migration routes are being constricted by extensive development, which may be further escalating the importance of their other seasonal ranges. Crucial winter range and migration routes are currently heavily impacted by existing and foreseeable energy and private development. Existing mitigations for mule deer winter habitats may not be achieving desired protection of mule deer (FSEIS pg. 4-129).

According to the *Pinedale Field Office Resource Management Plan FEIS'* cumulative effects analysis (BLM 2008), "Mineral development activities would cause the greatest level of impact on mule deer habitats.....through direct loss of habitat, animal displacement, disruption of migration corridors, and selection of alternative habitats (of which there are few). The displacement of mule deer from high-use to low-use areas has the potential to influence survival and reproduction (Sawyer et al. 2006). Should the loss of migration corridors take place and the loss of birthing habitat increase over the short term, it is possible that long-term displacement of mule deer from these habitats would occur. Sawyer et al (2006) further determined that mule deer were not simply moving to alternative habitats in substantial numbers when development occurred. These findings might suggest that habitats are already saturated to carrying capacity, and that there are actually limited alternative habitats available to support displaced animals. Concentrating animals in habitats can decrease over-winter survival and ultimately lead to population reductions..."

The Wyoming Range mule deer herd has been severely affected by over-winter mortality and the resulting lack of recruitment of fawns and yearlings for more than a decade (WGFD 2006). Drought conditions have also persisted on low elevation sagebrush winter ranges for several years reducing survival during even more mild winter conditions (Ibid.). Their population has been in a downward trend. The transition (migratory) habitat in upland areas such as the 44,720-

acre project area is becoming increasingly important to the success of the Wyoming Range mule deer herd. The effects based on the reasonably foreseeable development scenario for Alternative 2 have the potential for adding incrementally to the substantial existing and foreseeable effects on mule deer in the Green River Basin, which could result in changes at the Forest-wide population scale. Alternative 2 Reduced also could add incrementally to substantial effects because although there would be less total development, the activities in the northern lease block would be only slightly less than Alternative 2. There would be a somewhat lower potential for substantial cumulative effects with Alternative 3 and 3 Reduced and negligible potential with Alternative 4.

Although the Forest Plan Timing Limitation stipulation (May 15-June 30) for protection of calving/fawning habitat would limit the potential for disturbance of migration activities from exploration and development during the spring, disturbance related to operation and maintenance of producing wells would be likely because the Timing Limitation stipulation does not apply (FSEIS pg. 4-77). The Forest Plan also applies road density standards to Desired Future Condition 12 areas but there is very little overlap of this desired future condition with the 44,720 parcel areas. Action alternatives 3 and 3 Reduced limit access to existing open and closed roads (no new construction allowed) which would reduce the potential for road related effects of avoidance and reduced habitat security. However, as described in the FSEIS (pg. 4-73), depending on where exploration and development take place, much of the currently high security habitat could become low security as closed roads are opened. Restriction of public use of roads could also reduce the road related effects.

Effects on Other Wildlife

In addition to Canada lynx and mule deer, the Wyoming Range provides habitat for a number of migratory birds, elk and moose, Greater sage grouse, northern goshawk, three-toed woodpecker, great gray owl, boreal owl, big horn sheep, Colorado River cutthroat trout, Columbia spotted frog, and boreal toad to name only those of focus in the analysis. While estimated effects from action alternatives' lease related activities on these other wildlife and fish species are less significant than those for Canada lynx and mule deer, there would be effects. These include direct and indirect habitat loss and alteration, disturbance from human activity, and road related effects (sediment delivery to streams, barriers to fish movement and vehicular mortality in addition to those effects already described above) which would reduce the area's value as wildlife and fish habitat as well as reducing wildlife related recreation opportunities.

Effects on Air Quality

Concerns about potential impacts to air quality are also important to my decision. The potential for leasing to further contribute to impacts of elevated wintertime ozone on human health and impacts of reduced visibility on Class I areas is a key part of the rationale for my decision not to authorize leasing at this time. As discussed in the FSEIS (pg. 2-8), I recognize that the qualitative analysis completed for this project provides less information about potential impacts than could a quantitative (modeling) analysis. However, the projections of emissions do provide some indication of potential for impacts, and modeling conducted for other nearby oil and gas activities (Jonah Infill and Pinedale Anticline) shows these emissions would likely contribute to cumulative effects (FSEIS pg. 4-181). While the estimates for direct emissions from the reasonably foreseeable development scenario for this project *alone* are relatively small, it is the

potential effects of these when combined with effects of the many other existing and reasonably foreseeable exploration and development activities within the air quality domain that are of concern. According to Table 4.36 (FSEIS pg. 4-175), only about one third of the reasonably foreseeable development has been completed for southwest Wyoming, leaving two thirds yet to be developed. Sublette County ambient air monitoring stations have already recorded elevated ozone levels during their first four years of operation (2005 to 2008, FSEIS pg. 3-150). In a letter dated March 12, 2009, the Governor of Wyoming notified the U.S. Environmental Protection Agency of his recommendation that all of Sublette and portions of Sweetwater and Lincoln Counties be designated as nonattainment areas for 8-hour ozone National Ambient Air Quality Standards based on results of monitoring. In this letter, the Governor outlines the substantial challenges the State is facing with regard to the unique problem (rural winter-time ozone) and with reducing emissions from the natural gas industry which has not traditionally been regulated for ozone nonattainment problems.

The analysis presented in the SEIS shows that in addition to emissions of ozone precursors (VOC and NO_x) the action alternatives would also contribute cumulatively to on-going visibility impairment from dust and particulates within Prevention of Significant Deterioration (PSD) Class I Areas (Bridger, Fitzpatrick, Teton, North Absaroka and Washakie wilderness areas). The *Clean Air Act* gives Federal land managers an affirmative responsibility to consider protection of PSD Class I areas from unacceptable degradation of air quality related values including visibility. The analysis also shows potential for impacts from atmospheric deposition on the sensitive terrestrial and aquatic ecosystems within the Wind River Range. These impacts are of special concern for aquatic communities where resulting decreased pH and mobilization of heavy metals can interfere with reproduction of fish and amphibians (FSEIS pg. 4-138). An important consideration in my decision not to authorize a commitment to further leasing was these impacts along with the impacts and uncertainties related to full development of other existing leases.

Assumptions for all action alternatives included standard mitigations including drill rig, generator, and compressor station "Tier" (lower emitting equipment), dust abatement, and monitoring equipment to reduce visits to pads as well as Wyoming Department of Environmental Quality-Air Quality Division's (WDEQ) Best Available Control Technology (BACT) requirements. Alternative 3 added a stipulation notifying lessees that if WDEQ determines non-attainment or exceedance of a standard, special mitigation will be required for ongoing activities to ensure compliance with the *Clean Air Act*. The FSEIS also provides a listing of potential mitigation measures for reducing impacts to air quality and air quality related values which should be considered at the *Application for Permit to Drill /Surface Use Plan of Operations* stage. Many of the measures are also in the *Pinedale Anticline Record of Decision*. A review of these mitigation measures shows that they focus primarily upon technologically advanced equipment and cleaner operations most appropriately applied to specific exploration and development proposals. The effectiveness of these is variable depending on location conditions and specifics of a proposal and should be assessed at the project level. Further analysis of mitigation effectiveness at this stage of environmental review is not feasible (FSEIS pg. 4-202).

Effects on Recreation, Scenery, and Sense of Place

The Wyoming Range provides a unique offering, both for residents and visitors from farther away, of opportunities for outdoor recreation and renewal in settings that are relatively remote,

yet as scenic as other more crowded areas in existing designated wilderness and the nearby Jackson Hole/Yellowstone area. The SEIS highlights numerous changes in the broader social context (increased energy development, population increases, increases in motorized technology and resulting increases in access, and residential developments near the National Forest) that have increased both the demand for and the relative value of the Wyoming Range for its particular niche in the spectrum of recreational settings. The Range is known for its remote and primitive nature, relatively low human use, outstanding scenery, and opportunities for outdoor recreation including big game hunting, hiking, backpacking, and horseback riding, angling and snowmobiling, and non-fee undeveloped car camping.

“More than a series of attractions, the appeal of the Wyoming Range is its singularity as a place. The “feel” of it is different than the nearby Salt River Range or the mountains to the north and east; for each person who experiences the range there will be a unique set of reasons why. Considered a minor range by mountaineers and part of one’s back door wilderness and place of livelihood by many local residents, this range of mountains has been overlooked by the public at large. This is increasingly no longer the case. Controversy over development has shone a spotlight on the range. So have several guidebooks that serve recreationists looking to avoid the crowds. “Sense of place” is a term used to describe the largely unquantifiable values that draw people to specific landscapes. It goes beyond scenic quality, recreation opportunities, and other factors that the Forest Service typically addresses in environmental documents. It is an important component of culture and the self-identity of a society, and a major factor in the minds of many of those who have responded to public scoping for this analysis.” (FSEIS pgs. 3-24 to 3-25)

Potential effects on the recreation setting from roads, pipelines, well pads, and support facilities such as gravel pits, staging areas and collection facilities, sights and sounds of oil and gas activities, hazards from leaks, and effects of winter operations on existing snow trails could all occur under Alternative 2, 2 Reduced, and to a lesser degree under Alternative 3, and 3 Reduced (FSEIS pgs. 4-29 to 4-36). The sights and sounds of energy activity would be noticeable from the Wyoming Range National Recreation Trail and other viewpoints in the area (FSEIS pg. 4-46). Wells and associated pads, tanks, roads and pipelines would change the scenic character, undoubtedly detracting from the mostly natural appearing landscape, visual attractiveness, and sense of vastness that make recreating in the Wyoming Range a memorable experience for many.

Exploration could bring considerable heavy industrial traffic to portions of the area, with an average of 70-75 truckloads to move a typical drill rig to a site, and the introduction of noise, drill rig lights, dust, and air pollution though temporary during exploration, could be longer-term (average of 2-40 years) if the lease parcels are developed. Full development, under any conditions or lease stipulations, could have a significant effect on the general setting, due to the sights, sounds, and odors associated with gas field production. Safety would be a concern, especially in fall when recreation use is heaviest. Many camps, including established hunter and outfitter camps exist in the road corridors and these may be affected in the short term by construction traffic and its accompanying noise and dust (although mitigation is possible if work were conducted in July and August only). Part of the recreation setting that is valued in the Wyoming Range is the quiet and the remoteness from the sights and sounds of human development, clean air, and clear night skies. These could be compromised by oil and gas related activities.

In the long term the roads that are re-opened and reconstructed, whether managed for public use or not, would differ in development level and feel compared to the currently closed roads. Visitors could experience a dramatic difference between the current near-wilderness setting and that of an industrial setting, especially if well pads were placed near traditional hunting camps (FSEIS pgs. 4-31 to 4-32). To allow further leasing would risk transforming this wildland area with its high value backcountry character, remoteness, and fine scenery, diminishing the quality of recreation and renewal it now offers.

In March of 2009, the *Omnibus Public Lands Management Act* (Subtitle C) designated the “Wyoming Range Withdrawal Area” withdrawing from availability for oil and gas leasing most of the Range with the exception of valid existing rights. It also provides the opportunity for repurchase of those rights and retirement of existing leases. This Act reflects strong public sentiment for protecting the existing values of the Wyoming Range described above.

Context and Cumulative Effects

Finally, my decision acknowledges the difficult to quantify but never-the-less important context and potential for cumulative effects. The list of other existing and reasonably foreseeable activities (see *Sublette County Socioeconomic Impact Study Preliminary Draft*, Appendix B) with overlapping impacts paints a clear picture of why citizens are concerned about additional oil and gas leasing within the Wyoming Range. While many of these other energy development areas can provide needed energy resources, most of them cannot provide the quality and quantity of wildlife and fish habitats, nor the types and qualities of recreational opportunities and outstanding scenery provided by the Wyoming Range.

The issuance of a lease grants the rights to explore for and develop oil and gas consistent with the terms and stipulations of the lease. Many unknowns remain with regard to the 26 existing undeveloped leases (85,066 acres) and other existing leases held by production (28,971 acres) within the Wyoming Range. Since no proposals for these, other than Eagle Prospect Noble Basin, and True Oil Lander Peak (FSEIS pg. 4-110), have been submitted at the time of this writing, other activity on these leases was not factored into the reasonably foreseeable actions for cumulative effects analysis. If the Eagle Prospect Noble Basin Proposal is any indication, we could see similar proposals on 22 additional existing leases in the northern and eastern Wyoming Range. On the other hand, if exploratory wells find minimal development potential, activities on other leases in the area could be minimal. This uncertainty, in addition to the uncertainties about effects of proposed projects analyzed as reasonably foreseeable but not yet fully analyzed for potential effects, leaves me very uneasy about making further commitments by leasing these parcels at this time.

Recovery of Energy Resources and Social and Economic Conditions

I recognize that my decision not to authorize leasing will have consequences for the recovery of energy resources. No exploration or development would occur on these lease parcel areas at this time. Drilling on adjacent lands could potentially drain some limited gas resources from some of these areas. Energy resources within these lease parcels are estimated at between 139.1 and 255.0 billion cubic feet of gas, and 7.4 to 15.1 million barrels of liquid hydrocarbons (though we do not make estimates of actual oil and gas production because it would be too speculative), would remain unavailable at this time. I also recognize that neither the social and economic

benefits of jobs, income, and tax revenues associated with each of the action alternatives (FSEIS pgs. 4-5 to 4-27) would accrue to Sublette County, nor would the social and economic costs of increased population to cost of housing, increased demand for local services (schools, medical, and law enforcement), increased traffic levels, and needs for infrastructure. All of these effects would have been cumulative with, but relatively small compared to these same types of effects from the substantial on-going and reasonably foreseeable oil and gas related activities in the area.

Public Comment

Throughout the process of arriving at this decision, public comment from meetings and workshops held over a three year period for the Bridger-Teton Forest Plan revision confirmed to the Forest Service that the Wyoming Range is strongly valued locally, regionally and nationally for the existing character including wildlife, fish, recreation, air quality, and sense of place. Numerous letters from Governor Freudenthal have expressed concerns about the analysis given the very sensitive nature of these lands, concerns about potential impacts to recreation, air quality, and wildlife, especially in light of the extensive development occurring on nearby BLM lands; and expressing the view that leasing here is “simply not appropriate given the overriding public interest.” I have heard the citizen concerns about setting some kind of limits and “when is enough enough?” for oil and gas exploration and development. We received 21,455 responses during the review and comment period for the Draft SEIS. These, along with the results of the environmental analysis have led me to conclude that leasing of the 44,720 should not be authorized at this time.

The *Oil and Gas Leasing in the Wyoming Range SEIS* documents the analysis and conclusions upon which this decision is based.

PUBLIC INVOLVEMENT

A notice of intent to prepare an EIS was published in the Federal Register on February 4, 2008 (Vol.72, No. 23, 6453) and a revised notice of intent was published in the Federal Register on March 28, 2008 (Vol. 73, No. 61, 16621). In addition, the proposed action was listed in the Bridger-Teton National Forest Schedule of Proposed Actions and updated periodically during the environmental analysis. People were invited to review and comment on the proposal through January 28, 2008 scoping letters. Strong interest in the proposal was expressed early in the process through about 12,983 responses to scoping. In addition, comments on oil and gas leasing made during public involvement for Forest Plan revision in November 2006 and March 2007 were considered during issue development for this project. In January and February of 2009, Cooperating Agencies were provided a Preliminary Draft Supplemental Environmental Impact Statement for review and comment. These comments were considered during development of the Draft SEIS. The DSEIS lists agencies, organizations, and people who received copies on page 5-1 and 2. However, this listing is only partial because many individuals obtained the documents via the BTNF website.

The following issues were identified from scoping comments and were used to determine the scope of the analysis.

- **Social and Economic Conditions:** Post leasing activities could have potential cumulative effects on the social and economic well being of the local communities and quality of life for residents.
- **Backcountry Recreation, Scenery, and Character of the Area:** Potential impacts from post leasing exploration and or development could change the backcountry recreation setting, detracting from the quality of recreation opportunities in the area.
- **Reduced Potential for Effective Recovery of Energy Resources:** Not authorizing the BLM to issue subject leases and/or applying additional constraints to leases could prevent effective recovery of energy resources in the area.
- **Ground Water Resources:** Potential impacts from post leasing exploration and or development could occur to ground water of the area.
- **Terrestrial Wildlife Habitats:** Potential impacts from post leasing exploration and or development could occur to terrestrial wildlife including threatened, endangered, sensitive, and management indicator species habitats and populations.
- **Aquatic Wildlife Resources:** Potential impacts to water quality could affect habitat for fish and other special status aquatic species due to subsequent surface disturbing activities.
- **Rare Plant Habitats:** Potential impacts from post leasing exploration and or development could occur to rare plant species habitats including sensitive and management indicator species habitats and populations.
- **Air Quality and Air Quality Related Values:** The drilling and production of wells subsequent to leasing could impact air quality and air quality related values, with emphasis on cumulative effects because of extensive development in the Pinedale area and previously monitored (4/2008) exceedances of *National Ambient Air Quality Standards* for ozone in Sublette County.

A full description of issues significant to the proposed action appears in the SEIS on pages 2-2 to 2-5.

A Draft Supplemental Environmental Impact Statement was published for review and comment on February 5, 2010 (Notice of Availability, Federal Register Vol. 75, No. 24, pg. 6026).

ALTERNATIVES CONSIDERED

In addition to the selected alternative, I considered five other alternatives which are discussed below. Alternative 1 is the environmentally preferred alternative. A more detailed comparison of these alternatives can be found in the FSEIS on pages 2-40 through 2-48.

Alternative 1 – This, my decision, is the “No Action” alternative under which the Forest Service does not authorize BLM to offer leases for the 44,720 acres and under which there would be no opportunity at this time for exploration or development in the subject area. This decision supersedes prior Forest Service decisions made in June 2005 to authorize BLM to offer these

lease parcels. Twenty three pending leases would not be issued and twelve suspended leases would be cancelled with this alternative. High bidders will be refunded the filing fee, first year rental payment, and the bonus bid.

Alternative 2 – Under this alternative, the Forest Service would authorize leasing and the suspension of the 12 December 2005 and April 2006 leases (20,963 acres) would be lifted, and the 23 leases sold in June and August 2006 (23,757 acres, pending) would be issued. Total leased parcel acreage for this alternative would be 44,720 acres. Leases would be subject to stipulations and management direction provided in the Forest Plan as amended. Under this alternative, it is estimated that 27 wells could be drilled and 7 to 19 miles of road constructed/reconstructed in the next 10-15 years. Projections of total acreage disturbed from pads, roads, and compressors range from 101 to 170.

I did not select this alternative because it does not adequately take into account the significant information and circumstances described in FSEIS Chapter 1, pg. 1-2. The effects analysis in Chapter 4, shows that stipulations under this alternative are not projected to be sufficient to prevent adverse direct and indirect effects to Canada lynx and its designated critical habitat (*may affect, likely to adversely affect*), to individuals of other wildlife species (FSEIS pgs. 4-57 to 4-134), and to recreation and related resources (FSEIS pgs. 4-28 to 4-46). This alternative has the greatest potential of the action alternatives to add incremental effects to the effects of on-going and reasonably foreseeable activities in the area which could result in cumulative effects to Canada lynx, recreation and related resources, mule deer, and air quality and air quality related values which could be substantial.

Alternative 2 Reduced – Under this alternative, the twelve lease parcels (sold in December 2005 and April 2006. 20,963 acres) would be authorized by the Forest Service and lease suspensions lifted but the twenty-three lease parcels (sold in June and August 2006, 23,757 acres) would not be authorized and leases issued. High bidders for these leases would be refunded the filing fee, first year rental payment, and the bonus bid. Total leased parcel acreage for this alternative would be 20,963 acres. As in Alternative 2, leases would be subject to stipulations and management direction provided in the Forest Plan as amended. Under this alternative, it is estimated that 11 wells could be drilled and about 8 miles of road constructed/reconstructed in the next 10-15 years. Projected total acreage disturbed from pads, roads, and compressors would be 69.

While this alternative does result in less impact than Alternative 2 because of reduced lease parcel acreage, the remaining lease parcels (interior northern block) have the same stipulations as Alternative 2 which are not projected to be sufficient to prevent adverse direct and indirect effects to Canada lynx and its designated critical habitat (*may affect, likely to adversely affect*), to recreation and related resources, to elk habitat security, and to elk and mule deer migration activities. Cumulative effects, while less than Alternative 2, are still similar to Alternative 2 for the majority of the northern lease block with regard to Canada lynx and its critical habitat, recreation and related resources, mule deer and air quality and air quality related values.

Alternative 3 – Under this alternative, the Forest Service would authorize offering of leases, the suspension of the 12 December 2005 and April 2006 leases (20,963 acres) would be lifted, and the 23 leases sold in June and August 2006 (23,757 acres, pending) would be issued. However the Forest Service would require that both sets of leases have added stipulations in response to

issues identified in the SEIS. Total leased parcel acreage for this alternative would be 44,720 acres. Under this alternative, it is estimated that 20 wells could be drilled and 7 to 19 miles of road constructed/reconstructed in the next 10-15 years. Projections of total acreage disturbed from pads, roads, and compressors range from 101 to 170.

This alternative's added stipulations would result in reduced impacts compared to Alternative 2, but would not be sufficient to mitigate the effects of leasing to an acceptable level. Substantial impacts still are projected for Canada lynx and its designated critical habitat (*may affect, likely to adversely affect*), and adverse direct and indirect effects to recreation and related resources, to elk habitat security, and to elk and mule deer migration activities are also projected. Cumulative effects, while also less than Alternative 2, involve uncertainties as described above (under Context and Cumulative Effects), and are still of concern with regard to Canada lynx and its critical habitat, recreation and related resources, mule deer and air quality and air quality related values.

Alternative 3 Reduced— Under this alternative, the Forest Service would authorize the offering of the twelve leases (sold in December 2005 and April 2006, 20,963 acres) and suspensions would be lifted but the twenty-three leases (sold in June and August 2006, 23,757 acres) would not be issued. High bidders for these leases would be refunded the filing fee, first year rental payment, and the bonus bid. Total leased parcel acreage for this alternative would be 20,963 acres. As in Alternative 3, these leases would have added stipulations in response to current issues. Total leased parcel acreage for this alternative would be 20,963 acres. Under this alternative, it is estimated that 8 wells could be drilled and about 3 miles of road constructed/reconstructed in the next 10-15 years. Projected total acreage disturbed from pads, roads, and compressors would be 38.

While this alternative does result in less impact than Alternative 3 because of reduced lease parcel acreage, the remaining lease parcels (interior northern block) have the same stipulations as Alternative 3 which are projected to be sufficient to prevent some direct and indirect effects to Canada lynx (*may affect, not likely to adversely affect*) but not its designated critical habitat (*may affect, likely to adversely affect*). Adverse effects to recreation and related resources are similar to alternatives 2 and 3 for the interior northern lease block. Effects to elk habitat security and to elk and mule deer migration activities are of concern for the northern lease block with this alternative. Cumulative effects involve uncertainties as described above (under Context and Cumulative Effects), and are projected as adverse to mule deer population trend, recreation and related resources, and air quality and air quality related values.

Alternative 4 – Under this alternative, the Forest Service would authorize leasing with terms and conditions consistent with the criteria in the *Omnibus Public Land Management Act* (Wyoming Range). The Act provides that oil and gas resources in the Withdrawal Area could be leased if accessed only by directional drilling from adjacent leases held by production on National Forest System lands, extending no further than one mile inside the boundary, and prohibiting surface disturbance on the leases. Total leased parcel acreage for this alternative would be 6,000 acres. High bidders for the original lease parcels would be refunded the filing fee, first year rental payment, and the bonus bid. Under this alternative, it is estimated that 6 wells could be drilled and about 1 and a half miles of road constructed/reconstructed within the adjacent leases held by production in the next 10-15 years. Projected total acreage disturbed from pads, roads, and compressors would be 13.

I very carefully considered this alternative because it has the least potential impacts of the action alternatives. Even though this would reduce the occupancy and activity on lands within the lease area, it would prolong and compound disturbance from activities on the surrounding lease areas. While many of the direct and indirect impacts of this alternative are projected to be low or negligible, cumulative effects *are* projected, and I decided not to select it because of the uncertainties described above under Context and Cumulative Effects. I do not believe it would be in the public interest to make further commitments through additional leasing in this area at this time.

FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

Numerous laws, regulations and agency directives require that my decision be consistent with their provisions. My decision is consistent with all laws, regulations and agency policy relevant to this decision. The following discussion is intended to provide information on the regulations that apply to areas raised as issues or comments by the public or other agencies.

Findings under the “Wyoming Range Legacy Act”

Section 3202 of the *Omnibus Public Land Management Act of 2009* withdrew the Wyoming Range from disposition under laws relating to mineral and geothermal leasing. It recognized valid existing rights and in Section 3202(e) stated that nothing prohibits the Secretary (Department of Interior) from taking any action necessary to issue, deny, remove the suspension of, or cancel a lease, or any sold lease parcel that has not been issued, pursuant to any lease sale conducted prior to the date of enactment of this act, including the completion of any requirements under the *National Environmental Policy Act of 1969* (42 U.S.C. 4321 et seq.). This language provides discretion for the full spectrum of outcomes with regard to the subject leases. Section 3202(f) provided an exception under which oil and gas resources could be leased with special No Surface Occupancy stipulations for drilling from adjacent leases on National Forest held by production. Alternative 4 in the FSEIS disclosed environmental effects of this exception. My decision complies with the provisions of this Act.

Findings under 36 CFR 228.102(e)

Leasable public domain minerals are leased under the authority of the *Mineral Leasing Act of 1920* as amended. In 1987, Congress passed the *Federal Onshore Oil and Gas Leasing Reform Act (Leasing Reform Act)*. Consequently, the Forest Service developed new regulations in March of 1990 (36 CFR Parts 228 Subpart E and 261) to be consistent with the *Leasing Reform Act* and to provide guidance for oil and gas leasing and surface-use management on National Forest System lands.

The *Land and Resource Management Plan for the Bridger-Teton National Forest* identified the subject lands as available for oil and gas leasing, subject to enumerated restrictions on surface use. At the time when specific lands are being considered for leasing, I am required to: (1) verify that oil and gas leasing of the specific lands has been adequately addressed in a NEPA document, and is consistent with the Forest land and resource management plan; (2) ensure that conditions for surface occupancy are properly included as lease stipulations; and (3) determine that operations and development could be allowed somewhere on each proposed lease. As discussed

above, oil and gas leasing of these lands was not adequately addressed in prior NEPA documents. Furthermore, in light of the potential impacts discussed above, I do not believe it is appropriate to allow surface use for oil and gas development within the areas of these parcels and leases at this time.

The National Forest Management Act of 1976 (PL-94-588)

This decision is consistent with the *Land and Resource Management Plan for the Bridger-Teton National Forest*. The 1990 Plan provides management direction in the form of goals and objectives, desired future conditions, management emphasis, and resource prescriptions, standards, and guidelines. While this direction does show that the majority of the subject lease parcel area's desired future conditions emphasize "commodity resource development", forest plans do not mandate that particular activities must occur if they are allowed. The fact that an area is identified as available for oil and gas leasing in the Forest Plan does not mandate that the area be leased.

Forest-wide standards and guidelines also apply to the subject lease parcels. These standards and guidelines provide resource protections that may limit operations for producing commodities. In arriving at my decision I carefully considered Alternative 2 which applied only Forest Plan stipulations and direction; and also alternatives 3 and 4 which applied additional stipulations in response to new information and circumstances which raised concerns about potential environmental effects that were not analyzed in the Forest Plan FEIS. The *Wyoming Range Legacy Act* has significantly constrained future leasing options for these parcels. In light of these restrictions, amendment of the Forest Plan would be somewhat superfluous at this time.

Endangered Species Act (ESA)

The U.S. Fish and Wildlife Service has reviewed the Draft SEIS and has been engaged with the Forest Service in informal consultation as the environmental analysis was prepared. Because the selected Alternative 1 does not authorize leasing, there would be no effects to listed species.

Executive Order 13186 of January 10, 2001

My decision is in compliance with this *Executive Order for the Conservation of Migratory Birds*. Because the selected Alternative 1 does not authorize leasing, there would be no effects to migratory birds.

Clean Water Act

My decision is consistent with the *Clean Water Act*. Because the selected Alternative 1 does not authorize leasing, there would be no effects to water quality.

Executive Order 11990 of May 1977

This order requires the Forest Service to take action to minimize destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. My decision is in compliance with EO 11990. Because the selected Alternative 1 does not authorize leasing, there will be no effects to wetlands.

Executive Order 11988 of May 1977

This order required the Forest Service to provide leadership and take action to (1) minimize

adverse impacts associated with occupancy and modification of floodplains and reduce risk of flood loss, (2) minimize impacts of floods on human safety, health and welfare, and (3) restore and preserve natural and beneficial values served by floodplains. My decision is in compliance with EO 11988. Because the selected Alternative 1 does not authorize leasing, there will be no effects to floodplains.

Environmental Justice and Civil Rights

Executive Order 12898, issued in 1994 ordered Federal agencies to identify and address any adverse human health and environmental effects of agency programs that disproportionately impact minority and low-income populations. This project does not disproportionately impact any human populations. The *Civil Rights Act of 1964* provides for nondiscrimination in voting, public accommodations, public facilities, public education, federally assisted programs, and equal employment opportunity. Title VI of the Act, Nondiscrimination in Federally Assisted Programs, as amended (42 U.S.C. 2000d through 2000-d6) prohibits discrimination based on race, color or national origin.

American Antiquities Act of 1906 and National Historic Preservation Act of 1966

The Forest Service has made the determination that because the selected Alternative 1 does not authorize leasing, no historic properties will be affected [36CFR 800].

Energy Policy Act of 2005 (Public Law 109-58)

Development of reliable domestic sources of energy is encouraged under Public Law 109-58. Given the relative size of this leasing authorization compared with potential exploration and development of energy resources associated with existing leases on National Forest and the ongoing and reasonably foreseeable activities discussed in the FSEIS, I find my decision is consistent with Public Law 109-58.

ADMINISTRATIVE REVIEW (APPEAL) OPPORTUNITIES

This decision is subject to appeal pursuant to Forest Service regulations at 36 CFR 215. Appeals must meet the content requirements of 36 CFR 215.14. Only individuals or organizations who submitted comments or otherwise expressed interest in the project during the comment period may appeal. Appeals must be postmarked or received by the Appeal Deciding Officer within 45 days of the publication of this legal notice in the Casper Star Tribune, Casper, Wyoming. This date is the exclusive means for calculating the time to file an appeal. Timeframe information from other sources should not be relied on.

The Appeal Deciding Officer is the Regional Forester. Appeals must be sent to: Appeal Deciding Officer, Intermountain Region USFS, 324 25th Street, Ogden, Utah 84401; or by fax to 801-625-5277; or by email to: appeals-intermtn-regional-office@fs.fed.us. Emailed appeals must be submitted in rich text (rtf) or Word (doc) and must include the project name in the subject line. Appeals may also be hand delivered to the above address, during regular business hours of 8:00 a.m. to 4:30 p.m. Monday through Friday.

IMPLEMENTATION DATE

If no appeal is filed, implementation of this decision may begin on but not before the fifth business day following the close of the appeal filing period. If an appeal is filed implementation may occur on but not before the fifteenth business day following the date of the appeal disposition.

CONTACT

For additional information concerning this decision, contact: John Kuzloski , NEPA Coordinator, Bridger-Teton National Forest, P.O. Box 1888, 340 N. Cache, Jackson, WY 83001 (307) 739-5568.


Jacquie Buchanan
Forest Supervisor

11/25/11
Date

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