
APPENDIX D

Mineral Leasing Stipulations and Lease Forms

This appendix contains the resource-protection stipulations that would be attached to the lease as proposed in a number of Forest Plan alternatives. They are designed to protect important surface-resource values and uses, and would be applied to specific lands on the Forest.

The first part of this appendix contains a copy of the Offer to Lease and Lease for Oil and Gas, BLM Form 3100-11, which contains the standard lease terms.

STANDARD LEASE FORM

The following "Notice for Lands of the National Forest System the Jurisdiction of Department of Agriculture" is attached to every lease issued through the BLM. After the Notice for Lands are the stipulations that would be used under most alternatives.

R2-FS-2820-13 (92)

Serial No. _____

NOTICE FOR LANDS OF THE NATIONAL FOREST SYSTEM UNDER JURISDICTION OF DEPARTMENT OF AGRICULTURE

The permittee/lessee must comply with all the rules and regulations the Secretary of Agriculture set forth at Title 36, Chapter II, of the Code of Federal Regulations governing the use and management of the National Forest System (NFS) when not inconsistent with the rights granted by the Secretary of Interior in the permit. The Secretary of Agriculture's rules and regulations must be complied with for (1) all use and occupancy of the NFS prior to approval of an exploration plan by the Secretary of the Interior, (2) uses of all existing improvements, such as forest development roads, within and outside the area permitted by the Secretary of the Interior, and (3) use and occupancy of the NFS not authorized by an exploration plan approved by the Secretary of the Interior.

All matters related to this stipulation are to be addressed

To: **District Ranger**

At: (Address)

Telephone: (Number)

who is the authorized representative of the Secretary of Agriculture.

NOTICE

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. Prior to 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 which 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, and 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 vertebrate 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 Endangered Species Act of 1973 by detrimentally affecting endangered or threatened species or their habitats.

The lessee/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.

Lease form

lease form

No Surface Occupancy Stipulation for Bighorn Sheep Habitat

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description). Maps should be included as well.

For the purpose of: Protecting important bighorn sheep habitat.

Bighorn sheep exhibit a high fidelity to certain locations used for lambing, feeding, and watering. The Colorado Division of Wildlife has identified these locations. The no surface occupancy stipulation would not allow disturbances on these important wildlife sites.

Any changes: Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action that the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Why this Stipulation is Necessary for Resource Protection: Oil and gas activities, including field development, could cause impacts to herd calving, movements, and feeding causing the sheep to relocate to less favorable sites. For these reasons, no surface occupancy will be allowed so as to protect these important habitats.

This stipulation is consistent with the Forest Plan because it protects an important aspect of biodiversity and achieves the goals of wildlife management.

This stipulation is appropriate because standard lease terms alone allow occupancy. Timing limitations would only protect the animals during the birthing season but a field development could still occur and temporarily or permanently displace bighorn sheep from these important areas.

No Surface Occupancy Stipulation
for Watersheds of Concern and High Concern

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description)

All or portions of Sec. _____, T. _____, R. _____ as shown on the attached map which becomes a part hereof.

For the purpose of:

Protection and restoration of the _____ watershed (Watershed Number _____) that has been damaged through past surface disturbance.

Conditions under which a waiver of this stipulation would be considered:

1. A site-specific watershed analysis determines that the watershed is actually not a watershed of concern, then the NSO could be waived. Other resource stipulations may still apply.
2. Total surface disturbance in the watershed has been reduced and restoration has occurred to bring the watershed within acceptable limits.

Any changes to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and also to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM to this NSO stipulation is granted.

No Surface Occupancy Stipulation for Special Interest Areas

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

For the purpose of: Protecting unique and special areas of historic or cultural importance. This stipulation would be applied to the following special areas:

Management Prescription 2.1 and 3.1

Special interest areas have unique cultural, geologic, scientific, and social values that will be protected by the NSO stipulation.

Any changes: Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Exceptions may be allowed if the lessee can demonstrate that the integrity of the special area would not be impaired by development.

Why This Stipulation is Needed to Protect Resource Values: This stipulation is consistent with the proposed management-area prescriptions 2.1 and 3.1, Special Interest Areas. This stipulation is necessary so that unique and special resources may be protected from ground-disturbing activities associated with development.

No Surface Occupancy Stipulation

for Soils having High Mass Movement Potential

No surface occupancy or use is allowed on the lands described below: (legal subdivision or other description).

For the purpose of: Protecting long-term soil productivity and ecosystem sustainability. Areas with "high" mass movement potential have been mapped and are identified within the soil resource inventories for the Rio Grande Forest.

Any changes: Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed. WEM's will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

This stipulation may be waived if an on-site investigation by an interdisciplinary team concludes that operations may be carried out without undue risk to soil and water resources.

Why this Stipulation is Necessary for Resource Protection: This stipulation is necessary to protect sensitive soils and ecosystems from mass failure (landslides). This stipulation prohibits ground-disturbing activity. Standard lease terms are inadequate because they would allow occupancy and associated ground-disturbing activities. Any physical disturbances to the surface soils from roads, earthmoving, or pad construction might result in mass movement, a reduction of soil productivity, and increased sedimentation. The NSO stipulation would not allow occupancy and would maintain productivity while allowing leases.

This stipulation is consistent with the Rio Grande National Forest Land and Resource Management Plan which must manage the land so that long-term soil productivity is not damaged or impaired. It is consistent with other management activities such as timber activities. These soils were excluded from the suitable timber base.

No Surface Occupancy Stipulation for Research Natural Areas

No surface occupancy or use is allowed on the lands described below: (legal subdivision or other descriptions)

For the purpose of: Protection of important biotic and abiotic components of ecosystems.

Conditions under which stipulation would not apply: None

Any changes: Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed. WEM's will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Why this Stipulation is Necessary for Resource Protection: This stipulation is consistent with management area prescription 2.2 Research Natural Areas, which emphasizes protection of important natural areas for research and scientific study. Activities other than research and study are limited to those that are non-destructive of the natural vegetation and do not allow roads and facilities. NSO is appropriate because it will not allow occupancy in these natural areas, thereby protecting areas for study. Standard lease terms or other stipulations would be inadequate because occupancy would be allowed, disturbing and impacting the natural functions of the ecosystem. Under NSO, leasing would be allowed while protecting surface resources.

No Surface Occupancy Stipulation for Alpine Areas

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

For the purpose of: To protect fragile ecosystems that are not reclaimable and highly visible.

Areas identified in the Plan by the Kobresia on Alpine Slopes Landtype Association shall not have occupancy so that these fragile ecosystems may be protected from disturbances. Reclamation of alpine areas has proven very difficult, if not impossible, on these ecosystems.

Any changes: Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Why this Stipulation is Necessary for Resource Protection: Alpine areas are defined by landtype associations. The "Kobresia on Alpine Summits" ecological land unit association are high-elevation tundra areas having sedges, forbs, and shrub vegetation on shallow soils. Soils are strongly acidic, and have poor revegetation potential due to shallow rooting depth. This ecological unit is in a harsh climatic regime characterized by high winds, cold temperatures, 30 to 50 inches of precipitation per year, and a very short growing season.

The no surface occupancy stipulation is the most appropriate stipulation to protect these fragile ecosystems. Surface disturbances of any kind would be difficult, if not impossible, to reclaim. NSO is consistent with the overall concept of ecosystem management to protect sensitive resources and assure long-term productivity and sustainability of the land.

Standard lease terms, CSU or TL, would all allow occupancy, but would disturb these ecosystems. NSO allows these lands to be leased, while protecting and sustaining these fragile ecosystems.

No Surface Occupancy Stipulation for Backcountry Areas

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

For the purpose of: To protect the backcountry nature and experience within these remote areas.

This stipulation is applied to areas allocated to:

Management Prescription 3.3 Backcountry*

Any changes: Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Why this Stipulation is Necessary for Resource Protection: Backcountry prescription areas are generally unroaded, natural-appearing, and have little evidence of recent human-caused disturbance. No surface occupancy stipulation would be the most appropriate stipulation to protect these backcountry values. Surface disturbances of any kind would affect the nature and recreation potential of these areas. Standards lease terms, CSU or TL, would all allow occupancy, but would not protect the backcountry experience. NSO allows these lands to be leased, while protecting and maintaining these areas in an undeveloped setting. The NSO stipulation is consistent with the Forest Plan which emphasizes areas that are natural appearing with little or no evidence of recent human-caused disturbance. The NSO stipulation would be compatible since the aim is to provide recreation near the primitive end of the recreation opportunity spectrum.

Prescription 3.31 allows motorized uses on designated trails and selected low standard roads that require 4-wheel drive. To allow occupancy for oil and gas development, would require higher standard roads to be built. Higher standard roads would change the backcountry nature of these areas.

*Only apply this stipulation to areas with high oil and gas potential. All other areas (3.3) are not administratively available for lease.

No Surface Occupancy Stipulation for Ski Resorts

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

For the purpose of: To protect existing or potential winter sports sites.

This stipulation will be applied to the following areas:

Management Prescription 8.22 Ski Resorts

Any changes: Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Why this Stipulation is Necessary for Resource Protection: This stipulation is consistent with management area prescription 8.22 Ski Resorts. NSO is the appropriate stipulation because the mineral estate is available to be leased, while the integrity of the ski area as a recreational place is maintained throughout the four seasons. Timing limitations, controlled surface use, and standard lease terms would allow occupancy, and may create conflicts with four-season use or summer maintenance activities.

This stipulation is consistent with other activities allowed or restricted in such areas. For example, these lands are to be recommended for withdrawal from locatable mineral entry with every new master development plan. Alpine ski area lands are not allocated as suitable timber lands so no harvest is planned from these areas. Some tree removal could occur for ski area expansion, safety, aesthetics, and vistas.

No Surface Occupancy Stipulation

For Slopes of 40 Percent or More

No surface occupancy or use is allowed on the lands described below (legal subdivision or other description).

Any area within the leasehold which has slopes of 40 percent or more falls under the jurisdiction of this stipulation.

For the purpose of: To protect soil resources from excessive soil erosion, to reduce potential impacts to fisheries, to minimize sedimentation, and to reduce visual impacts from roads on steep slopes.

The Forest RIS database identifies the "average slope" of sites throughout the Forest. This will determine the areas needing this stipulation.

Any changes: Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

The leasee may use existing roads on such slopes to access gentler terrain. If new roads are needed through an area of 40 percent slopes or greater, then an on-site investigation will be conducted by various Forest resource specialists such as a hydrologist, soil scientist, engineer, landscape architect, and others. Approval may or may not be given depending on the potential resource impacts estimated by the resource specialists.

Why this Stipulation is Necessary for Resource Protection: This stipulation is consistent with the Forest Plan which has goals of maintaining soil productivity and protecting water quality. This stipulation supplement is not defined by management area prescriptions, because steep slopes may occur anywhere on the Forest. Visual impacts are also reduced by this stipulation since many of the steep slopes on the Forest would require full bench road construction which would be highly visible.

This stipulation is consistent with other activities allowed or restricted in steep slopes.

Timing Limitation Stipulation

For Deer and Elk Winter Range

No surface occupancy is allowed during the following time periods. This stipulation does not apply to operation and maintenance of production facilities: From December 1 through April 15.

This stipulation is applied to all lands allocated to Management Prescription 5.41

No surface occupancy or use is allowed on the lands described below: (legal subdivision or other description).

For the purpose of: Keep disturbance to acceptable levels, limit activities to periods of time when animals are not concentrated on these critical winter ranges.

Any changes: Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed, and will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

This stipulation may be waived after environmental analysis reveals that big-game animals are not in the area. This determination depends highly on the type of winter, snowfall amounts, and big-game herd movements and patterns.

Why this Stipulation is Necessary for Resource Protection: This stipulation is consistent with management prescription 5.41 Deer/Elk Winter Range, which emphasizes habitat management for deer, elk, pronghorn and bighorn sheep. The Timing Limitation Stipulation is appropriate because it will minimize impacts during the critical winter period from December 1 through April 15. Standard lease terms alone would not allow adequate time periods for protection of the elk winter range. Occupancy would be allowed in these areas during between April 16 through November 30.

Controlled Surface Use Stipulation

For Soils Having Moderate Mass Movement Potential

On the lands described below: Legal description.

Surface occupancy or use is subject to the following special operating restraints: Areas mapped with this stipulation have a moderate mass movement potential, which means they may be subject to landslides, earthflows, debris avalanches, and block slippage. Because of this possibility, occupancy (drill pads and access roads) will only be allowed after an on-site review by soil, water, and engineering specialists of the proposed well location. The specialists may approve the proposed location or require a new location.

For the purpose of: To protect soil, water and fisheries resources from mass failure (landslides).

The Forest RIS database identifies the soil units having moderate mass movement potential. Soil resource inventories identify these areas as well and can be used to identify areas having moderate mass movement potential.

Any changes: Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed. WEM's will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action that the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Why this Stipulation is Necessary for Resource Protection: Areas mapped with this stipulation have a moderate mass movement potential, which means they may be subject to landslides, earthflows, debris avalanches, and block slippage. Because of this possibility, occupancy (drill pads and access roads) will only be allowed after an on-site review of the proposed well location. The specialists that conduct the review may approve the proposed location or suggest a new acceptable location. The review team may consist of, but is not limited to the following specialists -- hydrologists, soil scientists, geotechnical engineers, and landscape architects.

This stipulation is necessary because proposed well locations may need to be moved more than 200 meters in order to keep mass movement risks minimized.

The CSU stipulation is consistent with the intent of the Land Management Plan which has goals of maintaining soil productivity, ecosystems sustainability, and protecting water quality. NSO would be overly restrictive since many areas within the stipulated area can have occupancy. Standard lease terms would be inappropriate because they would not describe the specific restrictions and limitations to development.

Controlled Surface Use Stipulation

For Scenic Resource Areas

On the lands described below: Legal description.

Surface occupancy or use is subject to the following special operating restraints: These areas have high scenic and recreational values that may require screening or buffering, or site relocation to meet landscape character through the use of line, form, color, and texture. Relocation of proposed well sites may require distances greater than 200 meters.

A computer-generated perspective may be required by the authorized officer as part of the visual impact assessment. In addition, an on-site investigation will be required by a qualified landscape architect as part of the site-specific environmental analysis.

This stipulation is applied to the following areas, unless a more restrictive stipulation applies.

Management Prescription 4.3, Dispersed Recreation
Management Prescription 4.21, Scenic Byways
Management Prescription 3.4, Scenic Rivers
Management Prescription 4.4, Recreation Rivers

For the purpose of: Protecting visual resources.

Any changes: Waivers, exceptions, or modifications (WEM's) to this stipulation will be considered only at the time operations are proposed. WEM's will be subject to the Forest Land and Resource Management Plan in effect at the time of consideration, and will be subject to applicable regulatory and environmental compliance requirements. Granting of a WEM is a discretionary action which the operator should not routinely expect. The Forest Service reserves the right to impose other stipulations in the same area of this leasehold if a WEM is granted.

Why this Stipulation is Necessary for Resource Protection: This stipulation is necessary because proposed well locations may need to be moved more than 200 meters in order to protect scenic resources.

The CSU stipulation is consistent with the Land Management Plan management area prescriptions 2.2, 3.4, 6.93, and 6.94. NSO would be overly restrictive since many areas within the stipulated area can have occupancy. Standard lease terms would be inadequate because they would generally allow relocations of approximately 200 meters, and this limited distance may not protect the scenic resources.