

William O'Donnell  
Grasslands Supervisor  
2000 Miriam Circle  
Bismarck, ND 58501

January 16, 2019

Dear Mr. O'Donnell:



Backcountry Hunters & Anglers (BHA) is a North American conservation organization dedicated to the conservation of backcountry fish and wildlife habitat, sustaining and expanding access to important lands and waters, and upholding the principles of fair chase.

The mission of BHA includes ensuring North America's outdoor heritage of hunting and fishing in a natural setting, through education and work on behalf of wild public lands and waters. BHA works towards maintaining and improving this great American legacy for both present and future generations.

The relatively new North Dakota chapter of BHA has nearly 300 members contributing to over 30,000 members nationally. Most of the state membership recreates on public lands, including the Dakota Prairie Grasslands (DPG). The Little Missouri National Grassland (LMNG) located in the Badlands is a favorite destination among members, offering hiking, biking, camping, and numerous hunting and watchable wildlife opportunities. The chapter is interested in the management of the grasslands and any proposals that may impact public or member use and enjoyment of these lands.

The DPG recently released the Draft Supplemental Environmental Impact Statement (DSEIS) for Oil and Gas Leasing for a 45-day public comment period, ending originally on December 17, 2018. The Forest Service extended this comment period 30 days. This SEIS process originally began December 2012 with an expected 2013 completion date. A revised notice of intent (NOI) was published in the Federal Register September 1, 2015. The final SEIS was anticipated to be completed February 2016.

Due to the government shutdown and Forest Service inability to adhere to its own schedule, BHA is requesting an additional 90-day extension period after the shutdown concludes so that BHA can more adequately analyze and provide substantive comment on the nearly 200-page document. BHA will provide commentary but we do not believe enough time has been granted to the public or other organizations to conduct in-depth analyses. BHA wants to ensure that oil and gas development on the national grasslands is being conducted with the best science and management practices available, and as collaboratively as possible.

While the Forest Service acknowledges conditions have changed on the landscape and with operations since the 2002 Grassland Plan Revision, the SEIS does not adequately address those conditions and operations and mostly fails to consider use of new technology.

While BHA supports the revised stipulations included in alternative 3 - the preferred alternative - BHA does not believe the Forest Service has developed a reasonable range of alternatives to address changed conditions and new technology. Council on Environmental Quality regulations requires a reasonable range of alternatives.

Specifically, the Forest Service failed to fully address key issues or include strategies identified in the assessment (Stakeholder Assessment of the North Dakota Badlands and the Little Missouri River Valley 2016) conducted by the Covenant Consulting Group (CCG), an assessment partially funded by the Forest Service. It is inconceivable that this body of work was not used to inform SEIS process. The goal to guide the assessment was **“To create strategies for how best to develop mineral resources with responsible stewardship of the Badlands.”** Stewardship principles included protection of ranching, wildlife, cultural and scenic values. The assessment is a starting point to finding those best practices that will accomplish the goal, and retain those surface assets for ranching, wildlife, scenic value, and historical sites.

The CCG team interviewed 71 North Dakotans to get their input on how to accomplish the stated goal. CCG focused on four key sectors to solicit ideas, namely ranching, oil industry, government agencies, and conservation and recreation groups. The report concludes with three recommended strategies to achieve the project’s goal of developing mineral resources with responsible stewardship of the Badlands:

1. A collaborative process including all parties;
2. Regulatory and statutory changes; and
3. A landscape-level pilot project that includes all parties.

BHA is concerned that the CCG assessment has played little or no part in the SEIS oil and gas process. BHA recommends that the Forest Service: 1) review the CCG assessment, 2) determine which issues should be addressed in a new alternative, and 3) act on the report’s recommended strategies. If the Forest Service is committed to using best management practices and new technology, it is paramount the Service engage in a collaborative process to inform its decision. A collaborative process will benefit the Service, the public and stakeholders.

BHA understands that new stipulations cannot be applied to lands currently under lease. However, the roughly 216,000 acres of LMNG not leased, but available, would be an ideal collaborative pilot project area that could result in regulatory and/or statutory changes. For example, the current .25-mile Little Missouri River No Surface Occupancy (NSO) stipulation could be increased to one or two miles (or possibly further) based on current technology and terrain. Conditions of Approval could be developed prior to

leasing to use current technology to protect scenic and wildlife values. BHA believes that now is the time to engage stakeholders to develop a comprehensive plan to manage these unleased lands.

After CCG released the stakeholder assessment, the Badlands Advisory Group (BAG) was formed in August 2016. Recommendations from the assessment included the development of an advisory committee to identify and work out the practical details of the assessment's recommendations. The original assessment found that many of those interviewed felt accessing data on oil development was difficult and communications between oil companies, government agencies, and landowners was sometimes lacking. BAG's objectives include: 1) think big picture at a landscape level, 2) prioritize the key issues that are most important and achievable, and 3) identify those practical, achievable action steps that would promote land stewardship. BHA believes these objectives should align well with Forest Service objectives and recommends the Service collaborate with the BAG to develop an alternative considered in detail that achieves mutual goals. Furthermore, a collaborative alternative developed with the BAG and other interested stakeholders, such as the National Park Service and the ND Game and Fish Department, would serve both the interests of the public and western North Dakota residents.

As noted, BHA understands that no new stipulations can be attached to a leased parcel. BHA believes, however, that a high priority should be placed on negotiations when a leaseholder wishes to develop a lease to ensure that surface impacts are minimized as much as possible. Surface impacts from oil and gas development, including pad size and access roads should be kept to an absolute minimum. Conditions of approval should be used to take advantage of technology and siting of well pads, roads and related facilities to reduce impacts to wildlife and scenic resources. Operators must comply with all conditions of approval specified in a permit to drill. These conditions should be subject to public notice and comment and should include public input through on-the-ground reviews. With respect to roads, they should either be identified as open or closed for public use. Closed roads should be gated and signed as such. Easements through private property should be in the U.S. Government's name, providing both public and administrative access.

BHA also recommends that the Forest Service analyze in detail the effects of oil and gas leasing on the status of Inventoried Roadless and Non-Motorized Areas in the LMNG. Special attention should be provided to these areas to maximize their protection and natural value. BHA supports current "Suitable for Wilderness" designations and wants to ensure that future oil and gas activities will not jeopardize wilderness designation.

Sincerely,

Board of Directors  
ND Backcountry Hunters and Anglers

CC Grasslands Supervisor  
DPG Staff