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Comments: Supervisor O'Donnell:

Thank you for the opportunity to comment on the Draft Supplemental Environmental Impact Statement-Oil and Gas Leasing (DSEIS). The following comments are provided on behalf of the 1,500 members of the North Dakota Wildlife Federation (NDWF). I will offer some general comments on the DSEIS process and scope, followed by specific comments on the DSEIS.

First, the NDWF would like to request an additional 90 days after the government shutdown is over to provide further review of the DSEIS. The DSEIS is 160+ pages long, has numerous other documents and reports as appendices or attachments, and took several years to draft and complete. In addition, due to the government shutdown, at times internet access to the documents has been difficult and there has been no opportunity to discuss the DSEIS with Forest Service-Dakota Prairie Grassland staff for clarification or explanation since December 21, 2018.

Second, the DSEIS missed an opportunity to update and correct all the after-the-fact omissions of the 2003 Record of Decision, based on the 2001 Northern Great Plains Management Plan Revision. The Bakken and the current oil and gas technology were unknown in 2001 and 2003. The Bakken and Three Forks formations were not described, and horizontal drilling and hydraulic fracturing (fracking) were, if not unheard of, were at least not described or analyzed. Impacts due to water use and 2,000 semi-trucks trips per well were not described or evaluated. For these reasons, the DSEIS should go back and analyze how oil and gas development actually occurred with the Bakken formation and fracking, because that is how the current and future oil and gas development described in this DSEIS will proceed.

Specific Comments:

The DSEIS analyzes three alternatives, and they are basically "all or none" alternatives. Alternative 1 would lease the remaining 216,300 acres (does not include 47,700 acres of inventoried roadless areas). Alternative 2 is the "no action", no further leasing, alternative. Alternative 3, the preferred alternative, proposes to lease the remaining 216,300 acres (not including the 47,700 of inventoried roadless areas) with new or updated stipulations. To repeat, the alternatives presented are to lease all of the remaining, non-inventoried roadless areas on none of the remaining acres.

Of these three alternatives, the NDWF believes that Alternative 2, the no action alternative should be the preferred alternative. Lease prices are generally low at current times. These acres could be withheld from lease until prices are better and there is not a glut of oil on the world market. If or when demand increases and current leases or US production decreases, these unleased acres could then be leased for higher rates and an improved return to the federal treasury. The roughly 699,000 currently leased federal lands have only been marginally developed, with one or only a few wells drilled per lease to hold production. Many more wells, perhaps 10 to 20 or more per 1,280 acre spacing unit could be developed for continued and increased oil and gas production without leasing any more Federal acres. So of the three offered alternatives; Alternative 2, the "no action" alternative makes the most economic sense.

A better option, or alternative would be for the Dakota Prairie Grasslands, U.S. Forest Service, to analyze the 216,300 acres available for lease and develop new stipulations to protect and maintain all the environmental factors prior to leasing. In this way the oil and gas industry would know the stipulations and conditions of approval before bidding, and the Forest Service would not be limited in developing stipulations and conditions of approval

for Application for Permit to Drill (APD) permits. Currently stipulations developed before leasing do not provide the flexibility to incorporate site of spacing unit specific conditions on APDs.

Page 11: The DSEIS refers to three types of stipulations, yet six stipulations are listed; NSO, controlled surface use, timing, timing only for construction and installation, stipulations based on resource concerns (ie 40% slope), and stipulations based on location in a Management Area.

Page 12: The map on Page 12 should show the location of the three units of Theodore Roosevelt National Park, so the reader can view the impacts to the Park.

T/E species, cultural and paleontological resources, and riparian areas are listed as lease notices, to be addressed if discovered. The NDWF suggests these should be lease stipulations listed prior to the APD process, when it becomes too late to address or avoid such impacts.

Table 3. We believe the stipulation and lease notice conditions for sharp-tailed grouse and sage grouse are not adequate. Sharp-tailed grouse males return to the leks in the fall, and disturbance at this time may cause the lek to be abandoned the following spring. The same may be true of sage grouse. We suggest further consultation with the North Dakota Game and Fish Department (NDGFD) and following the Sage Grouse Conservation Strategy to develop stronger stipulations and permit conditions to protect sage grouse.

Similarly, the stipulations for bighorn sheep seem to be weak. Later in the DSEIS, the Forest Service states that the bighorn sheep stipulations are less than what was recommended by the NDGFD.

The stipulation says there will be NSO stipulations within one mile of Theodore Roosevelt National Park. The NDWF suggests that there may be topographic situations where one mile NSO will be more than adequate, and situations where one mile will not be an adequate buffer to protect the Park. The one-mile NSO stipulation should be used on a site by site permit process.

The same is true for a one-quarter mile (1/4) NSO stipulation for the Little Missouri River. That may not be an adequate buffer or distance in some cases.

Page 16; Alternative 3: Again, the sharp-tailed and sage grouse stipulations may be not be adequate.

Page 17: The new sage grouse stipulations for restricting road maintenance to the March 1-April 30 time period do not seem to be long enough to protect the lek during the breeding season.

Page 25: The DSEIS suggests that 62 new wells will be drilled, presumably in the new leased areas, per year according to the 2018 Reasonable Foreseeable Development Scenario (RFDS). The NDWF would suggest that this rate of ultimate well development is low based on the 10- year lease period to develop production which would then hold the lease for as long as production occurs. Ultimate development will involve many more wells than those drilled in the short-term 10-year "develop it or lose it period" to hold the lease by production.

Page 26: DSEIS states that Alternative 2 would remove 216,300 acres from leasing. If would be more correct to say that Alternative 2 will not change anything from the current status; it will not remove acres from being leased; they are not leased now.

Page 27: The DSEIS suggests that approximately 62 wells will be drilled/developed per year in either Alternative 1 or 3. This amounts to 1,240 new wells on the 216,300 acres. The DSEIS does not describe the development of new wells on the previously leased 699,000 acres.

Alternative 2 is described as removing the 216,300 acres for only 5 years, while Alternatives 1 and 3 are

analyzed over a 20-year period. Why is there a discrepancy in the time frames for the alternatives? If Alternative is only for a 5-year delay, this further supports the suggestion waiting for the 5 years, conducting a more complete analysis, and leasing some acres then with a more carefully defined set of stipulations and conditions.

In describing Alternatives 1 and 3, the DSEIS repeatedly says there are no direct impacts from leasing because the lease is just a paper transaction. The impacts from drilling and production are said to be indirect impacts.

The attitude that the impacts are somehow lessened or not a result of the leasing seems to be a shirking of responsibility by the Forest Service. Ultimately, as a result of this and past leasing, there will be thousands of oil wells, roads, pipelines and other infrastructure constructed on the Little Missouri National Grasslands

The DSEIS does not address the impacts from flaring of natural gas other than to say that the State of North Dakota developed regulations to reduce flaring in 2014. The DSEIS also cites flaring data from 2017. In 2018 flaring increased to 500 million cubic feet of natural gas per day, far above the amounts described in 2017. The North Dakota Industrial Commission is considering relaxing its flaring regulations because they cannot be met. To suggest that flaring is not a concern, for health and tax and royalty issues, is to underestimate the truth of the flaring situation.

Page 52: the map on page 52 indicates new leasing in the southwestern portion of the State in potential or historic sage grouse habitat. Yet the DSEIS repeatedly states that there will be no or minimal impacts to sage grouse.

Page 55: DSEIS states that impacts to streams and rivers from road development, erosion, and the resultant sedimentation will range from negligible to major. This assessment covers quite a wide range of impact and describes no actions that will be taken to minimize the impacts. It really does not serve as an impact analysis.

Page 60: DSEIS suggests that the damage from spills and leaks will be addressed by Best Management Practices (BMPs), but does not describe the BMPs. BMPs do not ameliorate spills and leaks, especially if they are not used, are voluntary, or not enforced.

Page 61: DSEIS says water supply for drilling and fracking will be from offsite, and that there will be no effect caused by surface water withdrawal because the Forest Service does not allow surface water withdrawal on FS lands. The State of North Dakota does allow surface water withdrawal from surface water for drilling and frack water, and is permitting water withdrawals from the Little Missouri River. The Forest Service should assess the impacts from water withdrawal in the Little Missouri River for the oil and gas activities it permits because the State will allow water withdrawal from non FS lands. This may be an indirect impact, but it is still a result of the FS lease and APD. The Forest Service could stipulate that no Little Missouri River water may be used for fracking on FS lands.

Page 62: the State Water Commission is reported to say the average well uses 3.6 million gallons of water to drill/frack a well. Current estimates of water uses and new fracking techniques suggest that as much as 15 to 18 million gallons may be used per well. The DSEIS amount of surface water required for drilling and fracking use is vastly understated.

Page 63: Again, DSEIS says there are no direct impacts to streams and watersheds. The DSEIS must evaluate and describe both the direct and indirect impacts of their leasing and permitting actions. And again, the Forest Service is making the claim that because leasing is a paper transaction, there are no direct impacts, only indirect impacts, which do not have to be accounted for or mitigated.

Page 70: The DSEIS states that grassland habitat losses will be replaced by successful reseeding of native grasses and forbs, resulting in no impacts to Baird's sparrow. The DSEIS presents no data on the success of the

native grass and forb seeding and re-establishment, and given the past history and success of Forest Service attempts at native plant community restoration, there is no reason or data to believe it will happen.

Roads, wells pads and infrastructure all fragment existing native prairie communities. So the conclusion that there will be no increase in crested wheatgrass is misleading and the impact analysis for Baird's sparrow is inconclusive or faulty.

Page 71: There data no or analyses to conclude that there are only minor impacts to burrowing owls and/or prairie dog communities.

Page 71 (continued): The DSEIS does not attribute any of the historic decline in sage grouse numbers or populations to oil and gas development, contrary to other published data. Yet the DSEIS recognizes that vertical structures can impact sage grouse. Oil development includes drill pads, fences, utility lines, tank farms derricks, and a multitude of vertical structure, yet the DSEIS concludes that energy structure will not impact sage grouse.

Loggerhead shrike - DSEIS attributes declines in shrike populations and numbers to degradation of native prairie habitat and sage brush. Oil and gas development through well pads, roads and other infrastructure does precisely this.

Long billed curlew - DSEIS recognizes that oil and gas development affects curlews but does not describe the magnitude or scale of the impact.

Page 72: DSEIS cites published data that Sprague's pipit avoid habitats up to 350 meters from oil pads, yet describes no impacts to Sprague's pipit populations.

Page 73: NDGFD is referenced as saying the April 1-June 15 timing period is inadequate to protect or avoid impacts on bighorn sheep lambing areas, yet the DSEIS makes no mention of alternatives or other stipulations to reduce projected impacts. There are other disturbance or habitat impacts to bighorn sheep in addition to the lambing season. Vehicle-bighorn sheep collisions have also been an issue in the past.

Page 74: The DSEIS makes repeated references to increased well pads, roads and other infrastructure but does not equate that to habitat loss or fragmentation and negative impacts to the numerous wildlife species reviewed or covered in the DSEIS.

Page 74 DSEIS states that increased road con construction will lead to vehicle collisions with wildlife species, habitat fragmentation, disturbance, and the potential for increased poaching, but does not quantify the impacts and makes no suggestions for reducing or offsetting these impacts or losses.

Page 75: DSEIS references that "fugitive dust" will impact plant growth and seed/fruit development and that efforts to reduce dust on road with chloride solutions may lead to plant growth and soil sterility problems.

Similar impacts are mentioned with the impacts from disturbance and lights at night. Yet no mitigation measures are described.

Are the conclusions that the preferred alternative "may affect but would not likely adversely affect the numerous T/E species" supported or corroborated by the U.S. Fish and Wildlife Service?

The North Dakota Game and Fish Department has reported that the timing restrictions for the lambing season are not adequate. The Forest Service consider additional measures to protect bighorn sheep.

Page 81: The DSEIS states that because multiple wells will be built on multi-well pads or ecopads, there will be

less impact. While the NDWF agrees there may be a smaller "footprint" with multi-well pads, there will still be the increased number of semi-truck trips for drilling and fracking operations, and resultant disturbance and potential for vehicle-wildlife collisions.

Page 82: The statement is made that the preferred alternative or Alternative 1 "may affect individuals and their habitats but will not likely contribute to federal listing or a loss of viability to a population or species. This seems to be a low bar of achievement and an extremely weak attempt to avoid impacts to potential T/E species or species of interest and importance in North Dakota. This same conclusion is made for burrowing owl, Baird's sparrow, long-billed curlew, Sprague's pipit, and the Ottoe skipper. This appears to be an attempt to say "we didn't add it to the T/E species list so impacts are acceptable.

The DSEIS makes the same argument about sage grouse, but if increased oil and gas leasing and the "indirect" development leads to extirpation in North Dakota, this moves one step closer to putting the sage grouse on the T/E list.

The DSEIS claims there is some "benefit" to implementation of timing restrictions for some of the described species. A reduction in impacts is not a "benefit" to the species. A benefit would be an action that improves the outlook for the species, not an action that reduces a permitted negative impact.

Page 83: The DSEIS describes the use of timing limitations (January 1-March 31) to reduce impacts to pronghorn winter habitat, yet describes no efforts to mitigate or reduce impacts to migration routes or fawning areas or other factors that may negatively impact pronghorn.

The DSEIS states that NSO conditions may benefit deer (no species indicated). The NDWF would say that NSO stipulations while valuable, only maintain the status quo on those limited NSO tracts, and are not a "benefit" in terms of making things better for either white-tailed or mule deer across the whole leasing alternative (216,2300 acres).

Page 84: Again, the DSEIS states that stipulations (on roughly one-third of the proposed acreage to be leased) will prevent the sharp-tailed grouse, prairie dog, sage grouse from being listed or lead to the loss of a population or the species. This is an inadequate measure of accomplishment in terms of mitigating the impacts of the preferred alternative.

Page 84 - Grazing: No analysis of the impacts on livestock grazing is described or attributed to the preferred alternative, yet later the DSEIS states that 7,590 acres of grassland will be converted to well pads and an undetermined acreage will be converted to roads or other infrastructure. This will have a reduction in grazing and in AUMs.

Page 93: The threat of noxious weeds or invasive plants is not limited to just the 7,590 acres of well pads, but to roads and pipelines and any disturbed soil infrastructure, and to all the native grass habitats that may be invaded by these sources. Based on survey data reported in the DSEIS, that only 13 % of surveyed sites have no noxious weed or invasive plant species problems, past history of the Forest Service, and personal experience in looking at the National Grasslands would suggest that this will be a severe problem. Stipulations alone will not prevent noxious weed and invasive plant species problems on the 216,300 acres on National Grasslands proposed for leasing and "indirect" oil and gas development.

Page 95: Basically, Alternative 3 has all the same impacts of Alternative 1, with small reductions in impacts because of some stipulations and after the fact conditions of approval.

Page 101 - Rangelands: The loss of 0.5 % of the AUMs is described as a temporary loss. What is temporary about the conversion of 0.5 % of the grassland to well pads and roads? This represents a permanent, or at best

50-100 year loss of forage to the livestock industry.

The science of native plant restoration in badlands soils and topography is very limited and inconclusive.

The DSEIS goes on to state that the grazing lands have been reduced by a high degree in the past by oil and gas development, but does not recognize any impact in the future by this leasing alternative or any of the yet to be developed oil and gas production on already leased but yet undeveloped oil and gas.

Page 110: The DSEIS calls for NSO stipulations within [frac14] mile of campgrounds or developed recreation sites. This is really not sufficient to protect campsites from noise, disturbance, dust or other factors and still provide an aesthetic campground experience. Again, the Forest Service says that there will not be any direct impacts to recreation for oil and gas leasing, only indirect impacts.

In the discussion of impacts to recreation, there is only discussion on campgrounds, developed sites, and trailheads. There is no analysis of description of impacts to hiking, photography, or hunting. Even in the wildlife section there is no discussion of negative impacts to game species; white-tailed deer, mule deer, elk, and sharp-tailed grouse. The minor discussion on pronghorn only deals with timing limits on the wintering areas.

There will be substantial impacts from habitat loss, disturbance, habitat fragmentation, and increased poaching from road development on all or most game species.

The North Dakota Game and Fish Department in their May 2011, " Report to the Director on the Potential Impacts from Oil and Gas Development on Selected North Dakota Resources" should be extensively reviewed and used to analyze the impacts on game species, hunting, and recreation as a result of the preferred alternative. As currently drafted the DSEIS is totally inadequate in recognizing, much less describing or mitigating the impacts of the preferred alternative to wildlife, hunting, and recreation.

Page 126: The DSEIS recognizes that the timing limitations or APD permit only apply during oil well development and not during production. Admittedly then this does not alleviate disturbance impacts to either wildlife or recreation except during drilling.

Page 126: Trailheads have some NSO protection, but not the trails. There are numerous instances where wells and infrastructure have been developed within feet of the existing national recreation trails. The true impacts to hikers and other forms of recreation have not been recognized or analyzed.

In conclusion the DSEIS seems to understate or describe many of the environmental impacts to the considered resources or describe measures to reduce or mitigate the impacts. We suggest the Dakota Prairie Grasslands -

U.S. Forest Service further investigate and describe the negative impacts and mitigative measures. Further, the Forest Service should look at alternatives other than the "all or none" alternatives presented in the DSEIS.

Thank you again for the opportunity to comment on the Draft Supplemental Environmental Impact Statement - Oil and Gas leasing.