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Comments: To the Responsible Official and National Forests and Grasslands in Texas Staff:This letter serves as a formal comment concerning the Forest Service's proposal to re-evaluate oil and gas leasing availability across approximately 500,000 acres of the National Forests and Grasslands in Texas (NFGT).I. FAILURE TO FOLLOW PREDECISIONAL OBJECTIONS PROCESS.While the need to update management direction in light of new technology and environmental changes is acknowledged , the agency's current procedural strategy to bypass the predecisional objection process presents significant legal and technical vulnerabilities. The attempt to skirt the 36 CFR 219 process by elevating the signatory is a creative but legally fragile maneuver that undermines public accountability. The Forest Service should realign this project with the procedural requirements of 36 CFR [sect] 228.103(c)(2) to ensure that the eventual decision is both technically sound and legally defensible.A. The Conflict of Specific vs. General Regulatory Mandates.The agency's position that this project is exempt from the objection process rests on a highly formalistic application of 36 CFR [sect] 219.51(b). However, this general planning exemption is in direct conflict with 36 CFR [sect] 228.103(c)(2), which explicitly states that oil and gas leasing consent decisions are subject to the predecisional objection process set forth in 36 CFR 219 Subpart B. By appointing Michael Boren, Under Secretary for Natural Resources and Environment, as the responsible official to trigger a "final administrative determination," the agency is attempting to use a general procedural loophole to nullify a specific regulatory mandate governing mineral leasing. In administrative law, specific regulations regarding a distinct activity[mdash]such as the leasing of federal minerals[mdash]typically govern over general planning exceptions.B. Inconsistency Regarding Forest Plan Amendments.There is a notable technical contradiction in invoking a planning-rule exemption for a project that the agency claims may not even require a plan amendment. The exemption found in 36 CFR [sect] 219.51(b) is reserved specifically for "Plans, plan amendments, or plan revisions". Yet, the Forest Service admits that for the Proposed Action and its alternatives (excluding the No Leasing Alternative), the agency expects to develop alternatives that comply with the current 1996 forest plan without the need for an amendment. It is legally inconsistent to claim the2 of 3privileges of a planning exemption while simultaneously asserting that the core of the project does not actually involve a change to the underlying forest plan.C. Impact of Removing Administrative Review for 500,000 Acres.The scale of this decision[mdash]affecting half a million acres and proposing significant technical changes[mdash]warrants the transparency provided by the 36 CFR 219 Subpart B process. The proposed action includes high-stakes technical modifications, such as the removal of the current turkey nesting Timing Limitation (TL) stipulation and the conversion of 10,000 acres of Controlled Surface Use (CSU) to No Surface Occupancy (NSO). Bypassing the objection process removes the primary "safety valve" intended to resolve technical disputes between the public and the agency before they reach federal court. By forcing this decision into a "final" status through the Under Secretary's signature, the Forest Service is essentially inviting immediate and costly litigation rather than engaging in the collaborative dispute resolution that the objection process was designed to facilitate.II. DISCREPANCIES IN PUBLIC HEALTH AND SAFETY STANDARDS.The most critical regulatory vulnerability lies in the inconsistency of surface use stipulations regarding "sensitive receptors." The proposal presents conflicting alternatives that offer widely different levels of protection for residences, schools, nursing homes, and other care facilities. While some approaches correctly identify the need for a 500-foot protective buffer, other alternatives[mdash]such as Alternative 5[mdash]arbitrarily reduce this safety constraint to 300 feet. This inconsistency is scientifically and ethically indefensible, as the risks associated with modern horizontal drilling, including noise, light pollution, and potential well failure, do not diminish simply because an alternative leasing framework is selected. By allowing a variance that reduces the safety buffer to 300 feet in certain scenarios, the Forest Service creates an arbitrary loophole that prioritizes operational flexibility over the health and safety of vulnerable populations.III. RELIABILITY AND INTEGRITY OF GEOSPATIAL DATA.The proposal suffers from a significant reliance on unverified remote sensing data to determine leasing availability, which compromises the integrity of the entire analysis. Under the National Environmental Policy Act (NEPA), specifically the requirement for high-quality information and professional integrity as outlined in 40 CFR [sect] 1502.24, the Forest Service

has a duty to ensure that the data supporting its decisions is accurate. Currently, the proposal lacks a formal protocol for on-the-ground field verification of sensitive receptors. Relying exclusively on GIS mapping without physical confirmation creates a profound legal vulnerability, as lease stipulations[mdash]such as setbacks[mdash]may become unenforceable if the underlying mapping of the sensitive structures they protect is incorrect. This necessitates a mandate for site-specific field validation before any parcel is nominated for lease.IV. WATER STEWARDSHIP AND RESOURCE SUSTAINABILITY.The analysis fails to provide a comprehensive mitigation strategy for the substantial water requirements associated with modern hydraulic fracturing. The Reasonably Foreseeable3 of 3Development Scenario (RFDS) is based on generalized consumption estimates that do not account for the cumulative impact of water usage within the specific hydrological constraints of the Texas region. There is a glaring absence of a mandatory framework for water-use disclosure, which should, at a minimum, require operators to report the source of their water and the percentage of recycled fluid used. Without this level of transparency and a concrete plan for sustainable resource management, the Forest Service cannot effectively demonstrate that the proposed leasing will not result in adverse impacts to regional water security.V. REGULATORY ENFORCEMENT AND PRIVATE PROPERTY INTERSECTIONS.Finally, there is an unresolved vulnerability regarding how stipulations will be enforced where federal mineral estates overlap with private surface estates within the NFGT boundaries. Although Appendix C correctly identifies that no waivers or exceptions should be granted for sensitive receptor stipulations, the proposal is silent on the mechanisms for protecting private surface owners. This creates a regulatory gap where the Forest Service might inadvertently authorize development that infringes on private property rights or circumvents local safety standards. A clear, enforceable mechanism for notification and consent is required to ensure that the agency's "no waiver" policy is maintained in practice and that the rights of private surface holders are fully integrated into the leasing process.CONCLUSION.The current proposal, particularly the discrepancy between the 300-foot and 500-foot setback stipulations found in Appendix C, suggests an inconsistency in safety prioritization. To ensure responsible and ethical management of the NFGT, the Forest Service must: 1. Standardize the sensitive receptor setback to a minimum of 500 feet across all alternatives. 2. Commit to field-verified data collection for all sensitive receptor locations prior to any lease sale. 3. Implement a mandatory water-use reporting framework to mitigate regional resource strain.The attempt to skirt the 36 CFR 219 process by elevating the signatory is a creative but legally fragile maneuver that undermines public accountability. The Forest Service should realign this project with the procedural requirements of 36 CFR [sect] 228.103(c)(2) to ensure that the eventual decision is both technically sound and legally defensible.Sincerely,A Concerned Stakeholder