

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
WESTERN DIVISION**

CONTINENTAL RESOURCES, INC.,)

Plaintiff,)

v.)

Civil Action No. _____

SCOTT DE LA VEGA,)

in his official capacity as Acting Secretary of)
the United States Department of the Interior,)

and)

THE UNITED STATES DEPARTMENT)
OF THE INTERIOR,)

Defendants.)
_____)

VERIFIED COMPLAINT

Continental Resources, Inc. (“Continental”) submits respectfully this verified complaint seeking review of agency action under the Administrative Procedure Act, 5 U.S.C. §§ 701-706 (“APA”). Continental will seek emergency interim relief on an expedited schedule.

1. Continental is a crude oil and natural gas exploration and production company.
2. Continental operates oil and gas leases throughout western North Dakota.
3. This action pertains to fifty Applications for Permit to Drill (“APDs”) that Continental submitted in 2020 for wells on lands under the jurisdiction of Bureau of Land Management (“BLM”) North Dakota Field Office in Dickinson. For these fifty APDs, BLM’s responses were delayed by repeated software errors in BLM’s Automated Fluid Minerals Support System 2 (“AFMSS 2”). But for those errors, BLM would have approved these fifty

APDs before January 20, 2021. Even with the errors, BLM would have approved the fifty APDs by now, but for Secretarial Order 3395, *see* Attachment 1, withdrawing BLM's delegation of authority to approve them and reserving that authority to appointees of the new Administration.

4. The fifty APDs at issue are in five federal oil and gas units in Williams, Dunn, and McKenzie counties. The units are named the Charolais South, the Harms, the LCU Foster, the Flint Chips, and the Clear Creek units. For one of these five units, the Charolais South Unit, which pertains to thirteen APDs, Continental seeks emergency relief.

5. For the Charolais South unit, the United States Forest Service ("USFS") has indicated it wishes Continental to complete the construction of the well pads, road, and utility corridors before June 10, 2021, to minimize disturbance of wildlife, including the endangered Dakota skipper butterfly. To meet the agency's objective, Continental needs the BLM to issue the thirteen APDs for the Charolais South unit by March 8, 2021. Continental has twice written senior officials at the Department of the Interior (the "Department"), first the Acting Secretary on February 10, 2021, and second the Acting Assistant Secretary – Land and Minerals Management on February 16, 2021, both letters sent by electronic mail and received the same day they were dated. These officials have not responded.

6. Continental requests the Court order BLM to act on all fifty APDs, but specifically seeks emergency relief for an order requiring immediate action on the thirteen APDs pertaining to the Charolais South unit.

Background

7. The Mineral Leasing Act, 30 U.S.C. §§ 181-287, establishes mandatory procedures and deadlines the Department must follow when reviewing APDs. The Department has failed to process any of the fifty APDs in the time required by the Act.

8. The permits would have been approved by now in the normal course of business. However, on January 20, 2021, Defendant Acting Secretary of the Interior de la Vega signed Secretarial Order 3395. *See* Attachment 1.

9. Secretarial Order 3395 suspended the authority of the BLM to, among other things, “issue any . . . permit to drill.” Attachment 1, § 3g. The Order reserved the power to approve to the top nine Presidentially appointed officials in the Department. *Id.* § 4.

10. On February 10, 2021, Continental wrote the Acting Secretary, bringing to his attention that he was required by law to address the fifty permits. The letter spelled out the delays and the failings of the AFMSS 2. Because BLM was already beyond the time mandated by statute for action, Continental requested the Acting Secretary’s prompt action. Attachment 2.

11. On February 12, 2021, Continental learned that the thirteen permits for the Charolais South Unit had been proposed for approval under Secretarial Order 3395 and sent to the Acting Secretary for action. The Acting Secretary then forwarded the permits to Laura Daniel Davis, the Acting Assistant Secretary – Land and Minerals Management, for action. Acting Assistant Secretary Davis is one of the nine officials identified in Secretarial Order 3395.

12. On February 16, 2021, Continental submitted a second letter, this time to Acting Assistant Secretary Davis, emphasizing the time-sensitivity of the Charolais South permits and requesting her immediate approval. Attachment 3.

13. One week later, as of the filing of this verified complaint, the Department has not responded with respect to the Charolais South unit or to the other four units.

PARTIES

14. Plaintiff Continental is an Oklahoma corporation with its principal place of business in Oklahoma City, Oklahoma.

15. Defendant Scott de la Vega is the Acting Secretary of the United States Department of the Interior. Acting Secretary Vega is the head of the United States Department of the Interior. 43 U.S.C. § 1451.

16. Defendant United States Department of the Interior is an executive department of the government of the United States of America. 43 U.S.C. § 1451.

JURISDICTION AND VENUE

17. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1361. The United States has waived its sovereign immunity under the APA, 5 U.S.C. § 702.

18. Venue in this Court is proper under 28 U.S.C. § 1391(e)(1)(B) because a substantial portion of the events forming the basis of this action occurred within the State of North Dakota and because the property that is the subject of the action is situated there.

FACTUAL ALLEGATIONS

BLM's Administration of Oil and Gas Programs

19. The United States owns approximately 700 million subsurface acres of mineral estate. The Mineral Leasing Act establishes the framework under which the Secretary of the Interior leases and manages the development of these resources. The Secretary has delegated his

statutory responsibilities associated with the administration of the oil and gas leasing program to the BLM.

20. Within the BLM, the Montana/Dakotas State Office administers the development of oil and gas on federal lands within the State of North Dakota. The North Dakota Field Office in Dickinson, Stark County, North Dakota is a subcomponent of the Montana/Dakotas State Office. For the Charolais South and Harms units, the USFS administers the surface estate. For the Clear Creek, Flint Chips, and LCU Foster units, the surface estate is privately owned.

Master Development Plans and Unit Plans of Development

21. BLM is generally responsible for approving a project proponent's APDs, whether the federal government owns both the surface and the minerals or the minerals alone. Where the surface is privately owned, BLM considers surface impacts under both the National Environmental Policy Act ("NEPA") and the Endangered Species Act ("ESA"). Where the surface is federally owned, BLM also reviews the APDs for consistency with BLM-approved Resource Management Plans or Forest Service Land and Resource Management Plans. The environmental review includes an onsite inspection of the proposed well, access road, and pipeline locations, as well as other areas of proposed surface use.

22. For federally owned surface, rather than undergoing environmental review on each individual APD, proponents of oil and gas development have the option of submitting a Master Development Plan to facilitate development on parcels under lease. A Master Development Plan provides information common to multiple planned wells, including drilling plans, Surface Use Plans of Operations ("SUPOs"), and plans for future production. Master Development Plans also include information on associated facilities (e.g., roads, pipelines, utility

corridors, and compressor stations). The Master Development Plan allows federal agencies to conduct NEPA and other reviews on all the proposed activities at one time, rather than performing well-by-well analyses when the APDs are submitted. For the Charolais South and Harms units, on USFS lands, Continental prepared and joined in (with another operator) the Antelope Master Development Plan. BLM's internal guidance documents encourage the use of Master Development Plans to more effectively manage federal lease development. *See* Bureau of Land Mgmt., Instruction Mem. ("I.M.") No. 2005-247 (Sept. 30, 2005) ("An EA or EIS prepared for development of two or more oil, gas, or geothermal wells provides substantial time savings over writing individual EAs or EISs for each well approval and generally results in improved impact analysis.").

23. Work on the Antelope Master Development Plan began in 2012. During its preparation, the federal agencies undertook "formal" consultation with the United States Fish and Wildlife Service under the ESA. That consultation identified the Dakota skipper butterfly as at risk, and the Fish and Wildlife Service issued an "incidental take" permit prescribing limitations on Continental's activities to avoid unnecessary risk to that species.

24. By April 2018, the agencies had completed an environmental assessment under NEPA and determined that approval of the Antelope Master Development Plan was unlikely to have a significant effect on the environment, a finding reflected in a "Finding of No Significant Impact" ("FONSI"). No administrative protest or judicial challenge was filed with respect to the FONSI.

The Charolais South Unit APDs

25. The Charolais South APDs will be drilled from two multi-well drilling pads, the A and the B. *See* Attachment 4 (map). To the east lies another Continental multi-well pad, the Brangus. Continental has received all needed permits for operations at the Brangus. An access road north from a county road has been laid, as has its eastern fork to the Brangus pad. The Brangus pad is being constructed. Conductor casing, the initial pipe that protects the near-surface section of the wellbore, is being set for the Brangus wells with the goal of having construction complete in advance of the Dakota skipper work stoppage period of June 10 through July 25.

26. From the point where the access road forks, the access road to the A and B pads, the pads themselves, and authorizations for pipelines and electric cable await approval from Acting Assistant Secretary Davis.

27. Ordinarily, the presence of a sharp-tailed grouse lek within the area would cause the USFS to restrict an operator's activities during the period March 1 through June 15. Here, however, USFS wildlife staff concluded Continental needed to take all steps to complete construction quickly. More specifically, USFS concluded "due to the significant scope of the proposed project, allowing construction to proceed during these dates (March 1 through June 15) for two (2) years from when construction commences and within four (4) years from when the permit is issued *would greatly reduce impacts* to Sharp-tailed grouse and other wildlife species ... using the project area." Attachment 5 (COA at 3 ¶ 15) (emphasis added).

28. Construction has commenced. The first year of the two-year waiver for spring construction is in place. The Department's delay is, in the judgment of the USFS, adding to the risk of impacts to wildlife in the area.

29. Further USFS requirements add to the risk of delay to Continental. Continental may not begin drilling its Charolais wells until it has first constructed "all oil pipelines, gas pipelines, saltwater pipelines and flowlines paralleling the access roads." *Id.* at 2, ¶ 11. Authorizations for these lines are held up on the Acting Assistant Secretary's desk. As a result, Continental cannot undertake construction of the access road north of the fork

30. Along the routes for the access roads to Charolais pads A and B, lack of approval of the APDs has made it impractical even to set up the protective fencing needed for the Dakota skipper during construction.

31. The list of tasks to be completed before June 10 is lengthy. In more or less the following order, and simultaneously where possible, Continental must: (1) install the habitat fencing; (2) construct the pad for the Central Tank Battery (shown on Attachment 4 as the "CTB") to receive production from the three well pads; (3) deliver pipe to the CTB for staging to be used when the various lines are laid; (4) complete the Brangus road and well pad; (5) allow access to Continental's third-party vendor to lay the flow lines required to transport production of emulsified oil, gas, and water from the Brangus pad to the CTB; (6) build the road and the B pad for the nine Charolais South wells 7 through 15; (7) provide access to the midstream companies Bridger Pipeline, LLC, Oneok, Inc., and Goodnight Midstream Bakken, LLC, to install the equipment to move oil, gas, and produced water away from the project; (8) build the access road and the A pad for the four Charolais South wells 3 through 6; and (9) allow access to

Continental's third-party vendor to lay the flow lines from the Charolais South A and B pads to the CTB facility.

32. The goal is to complete the construction phase before the June 10 halt for the Dakota skipper. Drilling and completion activities would be scheduled to commence after July 25.

33. In addition to the risk the Department's delay poses to wildlife, Continental itself faces unrecoverable economic losses from a delay that prevents completion of construction this spring.

34. As is customary in the oil and gas business, Continental has to pay certain of its vendors a "mobilization fee" to compensate the vendor for costs of staging equipment and crew to be available on site when scheduled. Delay and uncertainty related to federal permitting has caused a halt to the work and required contractors to leave the project prematurely, only to return at a later date when permits are in hand. This delay will lead to Continental paying mobilization fees twice, a loss that can be estimated to be between \$20,000 to \$150,000, depending on the duration of the continued delay.

35. Further delay will postpone production. That postponement delays Continental's receipt of revenue from the thirteen Charolais South wells. Stated differently, further delay causes an immediate decrease in the net present value of these wells.

36. If these delays continue and these several losses are incurred, Continental has no legal means to recover them.

Continental's Permit Applications for the Remaining Wells

37. For the Harms unit, Continental's activities have been reviewed and approved under the Antelope Master Development Plan. BLM and USFS have authorized the surface disturbance needed to construct a road, construct a well pad, and to drill two wells. The Forest Service has also approved the SUPO—the surface use plan—for the remaining eleven wells. All that remains to be done is for the Acting Assistant Secretary to approve the eleven APDs.

38. For the Clear Creek unit, BLM has received the required cultural resource surveys. Continental has obtained the required permit from the United States Army Corps of Engineers in connection with the access road to be built. BLM has agreed that the Dakota skipper's habitat will not be affected by the drilling operations. The environmental assessment has been completed. All that remains is for the Acting Assistant Secretary to sign the APDs.

39. For the LCU Foster unit, all required reviews have been completed. All that remains is for the Acting Assistant Secretary to sign the APDs.

40. For the Flint Chips unit, BLM failed to act for sixty-nine days because of a software error in its electronic permitting system. *See* Attachment 1 at p. 2. BLM received the APDs on November 12, 2020. It acknowledged the APDs were complete. All that remains is for the Acting Assistant Secretary to complete the BLM's long overdue action.

Impact on Development

41. BLM's illegal delay in processing these fifty APDs has injured and will continue to injure Continental. Further delay will postpone production. That postponement delays Continental's receipt of revenue from the thirteen Charolais South wells. Further delay causes an immediate decrease in the net present value of all fifty of these wells.

42. Continental's project timetable has been premised on, among other factors: (i) the assumption that BLM would fulfill its statutory obligations under 30 U.S.C. § 226(p) and other applicable law when processing Continental's APDs; (ii) BLM's timely processing of APDs for wells in the five units; (iii) Continental's knowledge that environmental review for the APDs had already been conducted as part of the Antelope Master Development Plan and related BLM planning for development of the severed federal mineral estate in three of the units; and (iv) BLM's own goal that the permits would be granted in a manner that would allow Continental to comply with the applicable conditions of approval.

43. BLM has denied Continental's procedural right to have the APDs Continental submitted processed in accordance with the mandatory procedures, and within the obligatory deadlines, that the Mineral Leasing Act establishes. *See Spokeo v. Robins*, 136 S. Ct. 1540, 1549 (2016) (explaining that "the violation of a procedural right granted by statute" can constitute the injury in fact required for a plaintiff to establish standing).

COUNT I

BLM'S ACTION IS CONTRARY TO LAW (5 U.S.C. § 706)

44. Continental reasserts and incorporates by reference the preceding paragraphs as if fully set forth herein.

45. The Mineral Leasing Act requires that: "Not later than 10 days after the date on which the Secretary receives an application for any permit to drill, the Secretary shall-- (A) notify the applicant that the application is complete; or (B) notify the applicant that information is missing and specify any information that is required to be submitted for the application to be complete." 30 U.S.C. § 226(p)(1)(A)-(B).

46. The Mineral Leasing Act requires that:

“Not later than 30 days after the applicant for a permit has submitted a complete application, the Secretary shall—

(A) issue the permit, if the requirements under the National Environmental Policy Act of 1969 and other applicable law have been completed within such timeframe; or

(B) defer the decision on the permit and provide to the applicant a notice—

(i) that specifies any steps that the applicant could take for the permit to be issued; and

(ii) a list of actions that need to be taken by the agency to complete compliance with applicable law together with timelines and deadlines for completing such actions.”

30 U.S.C. § 226(p)(2)(A)-(B).

47. The Department has never identified any new information bearing on environmental impacts requiring additional NEPA analysis for any of the fifty APDs Continental submitted. The Department was statutorily required to issue the APDs under 30 U.S.C. § 226(p)(2)(A), or provide a reasoned deferral under 30 U.S.C. § 226(p)(2)(B), long before the filing of this verified complaint.

48. The Department has never given Continental any notice containing the information that 30 U.S.C. § 226(p)(2)(B) requires it to provide an applicant when it chooses to defer issuing a decision on an APD.

49. The Department has failed to meet its non-discretionary, mandatory obligations under 30 U.S.C. § 226(p).

PRAYER FOR RELIEF

Continental requests respectfully that the Court grant the following relief:

1. Direct the Department to immediately issue all thirteen APDs for the Charolais South wells or provide a non-arbitrary reason to withhold approval under 30 U.S.C. § 226(p)(2)(B) by no later than March 8, 2021;
2. With respect to the remaining wells, direct the Department to issue the APDs or notices compliant with 30 U.S.C. § 226(p)(2)(B) within seven days of the Court's order;
3. All costs and attorneys' fees authorized under 28 U.S.C. § 2412; and
4. Such other and further relief, in law and in equity, to which Continental may be entitled.

Submitted respectfully this 23rd day of February, 2021,

By: /s/ L. Poe Leggette

L. Poe Leggette
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Counsel for Plaintiff Continental Resources, Inc.

VERIFICATION

On behalf of Continental, I have reviewed this Verified Complaint. I know or believe that all allegations in the Complaint of which I have personal knowledge are true. I believe that the allegations of which I do not have personal knowledge are true based on documents and other information I have reviewed. I verify under penalty of perjury that the foregoing is true and correct.

Date: February 22, 2021

/s/ Chad B. Newby

Chad B. Newby, Director, Project Management
for Continental Resources, Inc.

* Counsel and Mr. Newby certify they have the signed original of this verification which is available for production to the Court or inspection during normal business hours by a party to this action.



THE SECRETARY OF THE INTERIOR
WASHINGTON

ORDER NO. 3395

Subject: Temporary Suspension of Delegated Authority.

Sec. 1. Purpose. This Order is made for the purpose of implementing a targeted and time-limited elevation of relevant decisions at the Department of the Interior (Department) for the purposes of reviewing the questions of fact, law, and policy they raise. This Order ensures that the Department continues its existing operations—including operations necessary for health, safety, and national security matters—consistent with all legal obligations and policy goals to uphold trust and treaty responsibility to tribal nations and to responsibly steward the Nation's public lands, waters, and resources for current and future generations.

Sec. 2. Authority. This Order is issued under the authority of Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262) and is consistent with 200 DM 1.

Sec. 3. Suspension of Authority. The delegations of authority to Department Bureaus and Offices to take any of the following actions are hereby temporarily suspended, but may be approved by leadership identified in Section 4 of this Order:

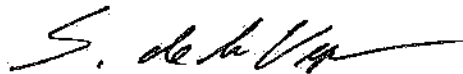
- a. To publish, cause to be published, or aid in the publication of any notice in the Federal Register, including, but not limited to, notices of proposed or final agency action and actions taken in accordance with the National Environmental Policy Act;
- b. To issue, revise, or amend Resource Management Plans under the authority of Section 202 of the Federal Land Policy and Management Act, as amended;
- c. To grant rights of way, easements, or any conveyances of property or interests in property, including land sales or exchanges, or any notices to proceed under previous surface use authorizations that will authorize ground-disturbing activities;
- d. To approve plans of operation, or to amend existing plans of operation under the General Mining Law of 1872;
- e. To issue any final decision with respect to R.S. 2477 claims, including recordable disclaimers of interest;
- f. To appoint, hire, or promote personnel, or approve the appointment of any personnel, assigned to a position at or above the level of GS 13, but this does not apply to seasonal hires or emergency work force personnel;

- g. To issue any onshore or offshore fossil fuel authorization, including but not limited to a lease, amendment to a lease, affirmative extension of a lease, contract, or other agreement, or permit to drill. This does not limit existing operations under valid leases. It also does not apply to authorizations necessary to: (1) avoid conditions that might pose a threat to human health, welfare, or safety; or (2) to avoid adverse impacts to public land or mineral resources.

Sec. 4. **Implementation.** Any and all delegations of authority to take the actions set out in Section 3 are temporarily suspended with respect to individuals other than a confirmed or Acting official in the following positions or a non-career official who has been delegated the authority to exercise the authority associated with the following positions under current law and regulations:

- a. Secretary
- b. Deputy Secretary
- c. Solicitor
- d. Assistant Secretary – Policy, Management and Budget
- e. Assistant Secretary – Land and Minerals Management
- f. Assistant Secretary – Water and Science
- g. Assistant Secretary for Fish and Wildlife and Parks
- h. Assistant Secretary – Indian Affairs
- i. Assistant Secretary – Insular and International Affairs

Sec. 5. **Expiration Date.** This Order is effective immediately and will remain in effect for 60 days, or until any of its provisions are amended, superseded, or revoked.



Scott de la Vega
Acting Secretary of the Interior

Date: JAN 20 2021

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**BY FIRST CLASS MAIL AND
BY EMAIL TO:
KAREN.HAWBECKER@SOL.DOI.GOV**

February 10, 2021

Hon. Scott de la Vega
Acting Secretary of the Interior
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Re: Statutory Deadline to Approve Permits to Drill to Support Existing Operations

Dear Acting Secretary de la Vega:

Continental Resources, Inc. ("Continental") operates five federal oil and gas units in western North Dakota. All are in Williams, Dunn, and McKenzie counties. Approved by the Bureau of Land Management ("BLM"), these units are named the Clear Creek, the LCU Foster, the Charolais South, the Harms, and the Flint Chips. Relevant to this request, Continental has submitted a total of fifty drilling permits, discussed in more detail below. By statute, all are overdue for approval. None has been approved.

By statute, 30 U.S.C. § 226(p), within thirty days after Continental submitted complete applications for permit to drill ("APDs"), the Department "shall . . . issue the permit" if it is in compliance with "applicable law." *Id.* § 226(p)(2)(A). The Department is already beyond the time the law allows it to act on the permits. There is no environmental issue which has not already been addressed in the permitting process. Further, these permits would and should have been approved prior to Secretarial Order 3395, but for system errors in the BLM's electronic permitting system, the Automated Fluid Minerals Support System ("AFMSS 2"). All that delays the approval of these permits now is Secretarial Order 3395, which you issued on January 21, 2021. But whether authority to approve them is exercised by you alone or by the field offices, the law requires timely compliance.

Continental relies on BLM fulfilling its duties promptly. Continental must schedule staff, contractors, supplies, equipment, and transportation to meet its lease obligations to the federal government. Delays like those described below disrupt efficient planning and prompt execution

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of our duties as federal lessees. We therefore request you promptly exercise the authority you have reserved to approve these fifty permits.

The details for these permits are set forth below, and the associated APD ID numbers are reflected on Exhibit A.

Fifty Permits for Five Units

For the Clear Creek Unit, Continental submitted permits for fifteen wells.¹ For the LCU Foster Unit, Continental submitted permits for three wells.² For the Charolais South Unit, Continental submitted permits for thirteen wells.³ For the Harms Unit, Continental submitted permits for eleven wells.⁴ For the Flint Chips Unit, Continental submitted permits for eight wells.⁵

Clear Creek Unit

The Clear Creek wells were the subjects of fifteen APDs submitted on August 12 and August 14, 2020. The applications were subsequently determined to be complete. On October 19, 2020, all were deferred pending BLM's review of a cultural resources inventory, but BLM stated its expectation the permits would be acted on by November 20, 2020. In fact, the State Historical Preservation Office concurred with the inventory. No further permitting issues remain.

LCU Foster Unit

The LCU Foster wells were the subjects of three APDs submitted on September 29, 2020. BLM determined the applications complete no later than November 12, 2020. At that point BLM had thirty days to act on the applications. As of December 29, 2020, BLM said it was awaiting only on an archaeological report, and committed to having the permit addressed within ten days of receiving it. BLM already had, however, both the report and the concurrence of the State Historic Preservation Officer on September 23, 2020. BLM therefore was required to act on the permits within 30 days of the filing of the three complete APDs: October 29, 2020. But even if BLM were regarded as not having received complete APDs until November 12, BLM was required to act by December 12, 2020.

¹ The Federal 2-26HSL1, the Federal 3-26H, the Federal 4-26H2, the Federal 5-35H, the Federal 6-26H1, the Federal 7-26H, the Federal 8-26H2, the Federal 9-26H, the Federal 10-35H1, the Federal 11-35H, the Federal 12-35H2, the Federal 13-35H, the Federal 14-35H1, the Federal 15-35HSL, and the Federal 16-35HSL2 (collectively the "Clear Creek wells").

² The Federal 2-28H, the Federal 3-28H1, and the Federal 4-28H (collectively, the "LCU Foster wells").

³ The Federal 3-10H2, the Federal 4-10H, the Federal 5-10H1, the Federal 6-10H, the Federal 7-10H2, the Federal 8-10H, the Federal 9-10H1, the Federal 10-10H, the Federal 11-10H2, the Federal 12-10H, the Federal 13-10H, the Federal 14-10H2, and the Federal 15-10H (collectively, the "Charolais South wells").

⁴ The Federal 3-32HSL1, the Federal 4-32HSL, the Federal 5-32H2, the Federal 6-32H, the Federal 7-32H2, the Federal 8-32H, the Federal 9-32H1, the Federal 10-32H, the Federal 11-32H2, the Federal 12-32H, and the Federal 13-32H1 (collectively, the "Harms wells").

⁵ The Federal 2-5HSL, the Federal 3-5HSL1, the Federal 4-5H, the Federal 5-5H1, the Federal 9-5H1, the Federal 10-5H, the Federal 11-5H1, and the Federal 16-5HSL (collectively, the "Flint Chips wells").

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Charolais South Unit

The Charolais South wells were the subjects of thirteen APDs submitted on July 27, 2020. Software issues in the AFMSS 2 placed these permits in and out of the queue, unrelated to any actual deficiency in the applications. But for the software issues in the AFMSS 2 system, all administrative tasks would have been completed by January 5, 2021.

Harms Unit

The Harms wells were the subjects of eleven APDs submitted on December 3, 2020. On December 18, 2020, all were deferred pending the concurrence of the Forest Service on the surface use plan of operations. On January 14, 2021, the U.S. Forest Service confirmed by email the surface use issues were resolved to the Service's satisfaction. No other issue remains prior to approval.

Flint Chips Unit

The Flint Chips wells were the subjects of eight APDs submitted on November 12, 2020. Because of apparent software issues with AFMSS 2, it took BLM sixty-nine days to provide Continental the statutorily-required ten-day notice that the APDs were complete. But for the software issues in the AFMSS 2 system, all reviews should have been completed prior to January 20, 2021.

Again, we respectfully request the Department honor the statutory deadline and take immediate action to approve these pending permits. I will appreciate your prompt response.

Sincerely,



L. Poe Leggette

Exhibit A

LCU Foster Federal 2-28H	10400062536
LCU Foster Federal 3-28H1	10400062565
LCU Foster Federal 4-28H	10400062562
Charolais South Federal 3-10H2	10400059440
Charolais South Federal 4-10H	10400059449
Charolais South Federal 5-10H1	10400059445
Charolais South Federal 6-10H	10400059451
Charolais South Federal 7-10H2	10400058814
Charolais South Federal 8-10H	10400058847
Charolais South Federal 9-10H1	10400058835
Charolais South Federal 10-10H	10400058856
Charolais South Federal 11-10H2	10400058845
Charolais South Federal 12-10H	10400058857
Charolais South Federal 13-10H	10400058858
Charolais South Federal 14-10H2	10400058846
Charolais South Federal 15-10H	10400058860
Clear Creek Federal 5-35H	10400060266
Clear Creek Federal 10-35H1	10400060237
Clear Creek Federal 11-35H	10400058552
Clear Creek Federal 12-35H2	10400060246
Clear Creek Federal 13-35H	10400060096
Clear Creek Federal 14-35H1	10400060254
Clear Creek Federal 15-35HSL	10400060099
Clear Creek Federal 16-35HSL2	10400060259
Clear Creek Federal 2-26HSL1	10400060334
Clear Creek Federal 3-26H	10400060336
Clear Creek Federal 4-26H2	10400060305
Clear Creek Federal 6-26H1	10400060328
Clear Creek Federal 7-26H	10400060371
Clear Creek Federal 8-26H2	10400060331
Clear Creek Federal 9-26H	10400060372

Flint Chips 2-5HSL	10400064633
Flint Chips 3-5HSL1	10400064728
Flint Chips 4-5H	10400064732
Flint Chips 5-5H1	10400064733
Flint Chips 9-5H1	10400064738
Flint Chips 10-5H	10400064866
Flint Chips 11-5H1	10400064869
Flint Chips 16-5HSL	10400064870
Harms 3-32HSL1	10400066098
Harms 4-32HSL	10400066102
Harms 5-32H2	10400066103
Harms 6-32H	10400066104
Harms 7-32H2	10400065653
Harms 8-32H	10400065646
Harms 9-32H1	10400065654
Harms 10-32H	10400065655
Harms 11-32H2	10400065656
Harms 12-32H	10400065657
Harms 13-32H1	10400065658

BakerHostetler

**BY FIRST CLASS MAIL AND
BY EMAIL TO:
KAREN.HAWBECKER@SOL.DOI.GOV**

February 16, 2021

Ms. Laura Daniel Davis
Principal Deputy Assistant Secretary and
Acting Assistant Secretary of the Interior
Land and Minerals Management
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Baker & Hostetler LLP

811 Main Street
Suite 1100
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L. Poe Leggette
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pleggette@bakerlaw.com

Re: Statutory Deadline to Approve Permits to Drill: Charolais South Unit

Dear Acting Assistant Secretary Davis:

On February 10, 2021, I wrote to Acting Secretary de la Vega concerning the Department's obligation to act on fifty pending applications for permit to drill ("APDs") filed by Continental Resources, Inc. ("Continental") for five federal oil and gas units in western North Dakota. (Copy enclosed.)

I write to bring to your immediate attention a package of thirteen of these APDs the Bureau of Land Management ("BLM") has presented to your office for approval. These thirteen APDs concern the Charolais South unit (one of the five discussed in the enclosed letter). As you have been advised, both the United States Forest Service and the BLM field office believe there will be less environmental impact if Continental is able to complete construction of the associated roads, pipe and utilities lines, and well pads this spring, rather than disrupting the environment with a start-stop-start pattern of construction.

For Continental to meet the Forest Service's objectives, Continental needs your immediate approval of the Charolais South APDs. I would be most grateful for your prompt attention for it would avoid the need for Continental to seek emergency relief from the U.S. District Court for the District of North Dakota.

February 15, 2021

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Sincerely,

A handwritten signature in blue ink, reading "L. Poe Leggette". The signature is written in a cursive style with a large, stylized "L" and "P".

L. Poe Leggette

Enclosure

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**BY FIRST CLASS MAIL AND
BY EMAIL TO:
KAREN.HAWBECKER@SOL.DOI.GOV**

February 10, 2021

Hon. Scott de la Vega
Acting Secretary of the Interior
Department of the Interior
1849 C Street, NW
Washington, DC 20240

Re: Statutory Deadline to Approve Permits to Drill to Support Existing Operations

Dear Acting Secretary de la Vega:

Continental Resources, Inc. ("Continental") operates five federal oil and gas units in western North Dakota. All are in Williams, Dunn, and McKenzie counties. Approved by the Bureau of Land Management ("BLM"), these units are named the Clear Creek, the LCU Foster, the Charolais South, the Harms, and the Flint Chips. Relevant to this request, Continental has submitted a total of fifty drilling permits, discussed in more detail below. By statute, all are overdue for approval. None has been approved.

By statute, 30 U.S.C. § 226(p), within thirty days after Continental submitted complete applications for permit to drill ("APDs"), the Department "shall . . . issue the permit" if it is in compliance with "applicable law." *Id.* § 226(p)(2)(A). The Department is already beyond the time the law allows it to act on the permits. There is no environmental issue which has not already been addressed in the permitting process. Further, these permits would and should have been approved prior to Secretarial Order 3395, but for system errors in the BLM's electronic permitting system, the Automated Fluid Minerals Support System ("AFMSS 2"). All that delays the approval of these permits now is Secretarial Order 3395, which you issued on January 21, 2021. But whether authority to approve them is exercised by you alone or by the field offices, the law requires timely compliance.

Continental relies on BLM fulfilling its duties promptly. Continental must schedule staff, contractors, supplies, equipment, and transportation to meet its lease obligations to the federal government. Delays like those described below disrupt efficient planning and prompt execution

February 10, 2021
Page 2

of our duties as federal lessees. We therefore request you promptly exercise the authority you have reserved to approve these fifty permits.

The details for these permits are set forth below, and the associated APD ID numbers are reflected on Exhibit A.

Fifty Permits for Five Units

For the Clear Creek Unit, Continental submitted permits for fifteen wells.¹ For the LCU Foster Unit, Continental submitted permits for three wells.² For the Charolais South Unit, Continental submitted permits for thirteen wells.³ For the Harms Unit, Continental submitted permits for eleven wells.⁴ For the Flint Chips Unit, Continental submitted permits for eight wells.⁵

Clear Creek Unit

The Clear Creek wells were the subjects of fifteen APDs submitted on August 12 and August 14, 2020. The applications were subsequently determined to be complete. On October 19, 2020, all were deferred pending BLM's review of a cultural resources inventory, but BLM stated its expectation the permits would be acted on by November 20, 2020. In fact, the State Historical Preservation Office concurred with the inventory. No further permitting issues remain.

LCU Foster Unit

The LCU Foster wells were the subjects of three APDs submitted on September 29, 2020. BLM determined the applications complete no later than November 12, 2020. At that point BLM had thirty days to act on the applications. As of December 29, 2020, BLM said it was awaiting only on an archaeological report, and committed to having the permit addressed within ten days of receiving it. BLM already had, however, both the report and the concurrence of the State Historic Preservation Officer on September 23, 2020. BLM therefore was required to act on the permits within 30 days of the filing of the three complete APDs: October 29, 2020. But even if BLM were regarded as not having received complete APDs until November 12, BLM was required to act by December 12, 2020.

¹ The Federal 2-26HSL1, the Federal 3-26H, the Federal 4-26H2, the Federal 5-35H, the Federal 6-26H1, the Federal 7-26H, the Federal 8-26H2, the Federal 9-26H, the Federal 10-35H1, the Federal 11-35H, the Federal 12-35H2, the Federal 13-35H, the Federal 14-35H1, the Federal 15-35HSL, and the Federal 16-35HSL2 (collectively the "Clear Creek wells").

² The Federal 2-28H, the Federal 3-28H1, and the Federal 4-28H (collectively, the "LCU Foster wells").

³ The Federal 3-10H2, the Federal 4-10H, the Federal 5-10H1, the Federal 6-10H, the Federal 7-10H2, the Federal 8-10H, the Federal 9-10H1, the Federal 10-10H, the Federal 11-10H2, the Federal 12-10H, the Federal 13-10H, the Federal 14-10H2, and the Federal 15-10H (collectively, the "Charolais South wells").

⁴ The Federal 3-32HSL1, the Federal 4-32HSL, the Federal 5-32H2, the Federal 6-32H, the Federal 7-32H2, the Federal 8-32H, the Federal 9-32H1, the Federal 10-32H, the Federal 11-32H2, the Federal 12-32H, and the Federal 13-32H1 (collectively, the "Harms wells").

⁵ The Federal 2-5HSL, the Federal 3-5HSL1, the Federal 4-5H, the Federal 5-5H1, the Federal 9-5H1, the Federal 10-5H, the Federal 11-5H1, and the Federal 16-5HSL (collectively, the "Flint Chips wells").

February 10, 2021
Page 3

Charolais South Unit

The Charolais South wells were the subjects of thirteen APDs submitted on July 27, 2020. Software issues in the AFMSS 2 placed these permits in and out of the queue, unrelated to any actual deficiency in the applications. But for the software issues in the AFMSS 2 system, all administrative tasks would have been completed by January 5, 2021.

Harms Unit

The Harms wells were the subjects of eleven APDs submitted on December 3, 2020. On December 18, 2020, all were deferred pending the concurrence of the Forest Service on the surface use plan of operations. On January 14, 2021, the U.S. Forest Service confirmed by email the surface use issues were resolved to the Service's satisfaction. No other issue remains prior to approval.

Flint Chips Unit

The Flint Chips wells were the subjects of eight APDs submitted on November 12, 2020. Because of apparent software issues with AFMSS 2, it took BLM sixty-nine days to provide Continental the statutorily-required ten-day notice that the APDs were complete. But for the software issues in the AFMSS 2 system, all reviews should have been completed prior to January 20, 2021.

Again, we respectfully request the Department honor the statutory deadline and take immediate action to approve these pending permits. I will appreciate your prompt response.

Sincerely,

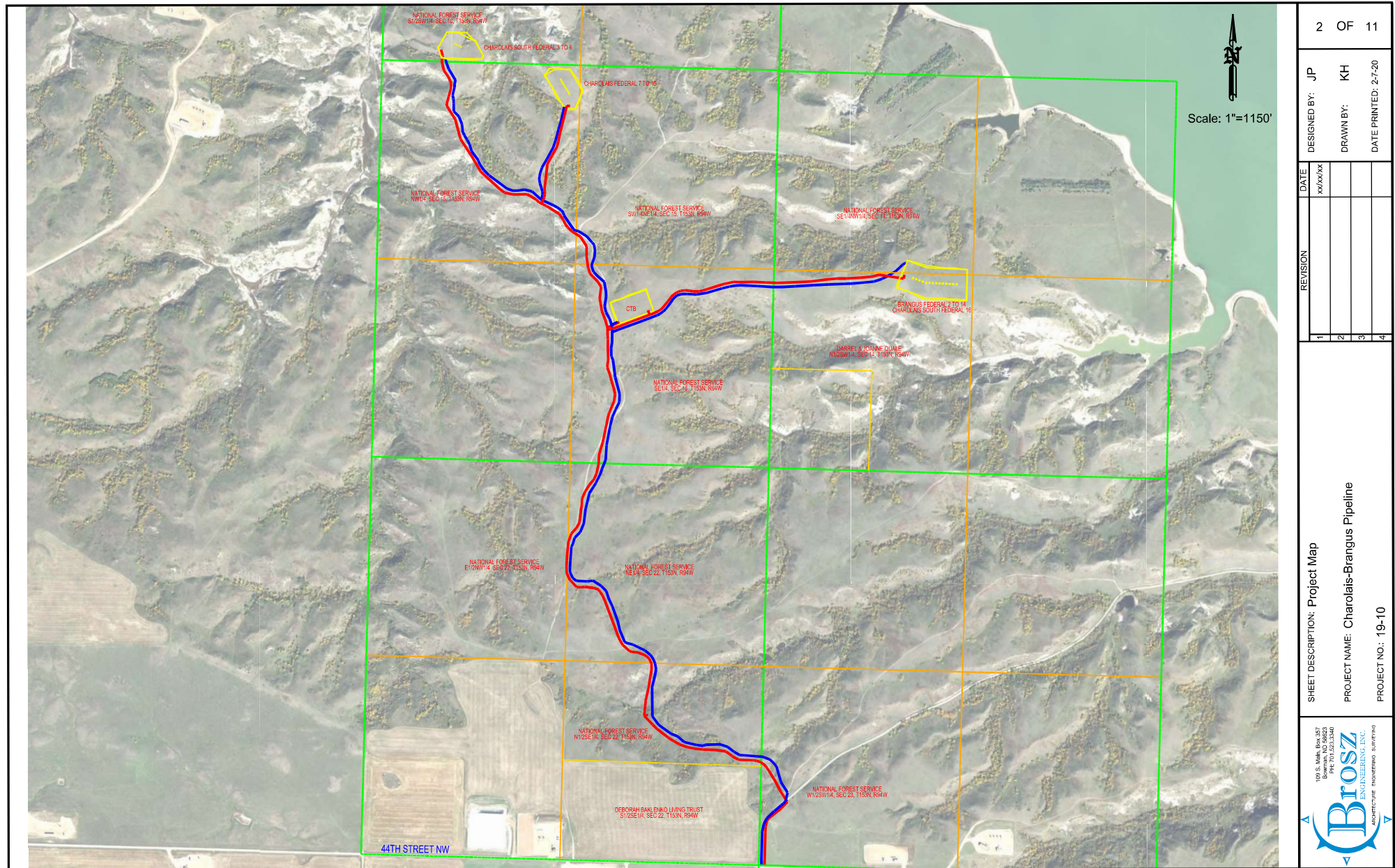


L. Poe Leggette

Exhibit A

LCU Foster Federal 2-28H	10400062536
LCU Foster Federal 3-28H1	10400062565
LCU Foster Federal 4-28H	10400062562
Charolais South Federal 3-10H2	10400059440
Charolais South Federal 4-10H	10400059449
Charolais South Federal 5-10H1	10400059445
Charolais South Federal 6-10H	10400059451
Charolais South Federal 7-10H2	10400058814
Charolais South Federal 8-10H	10400058847
Charolais South Federal 9-10H1	10400058835
Charolais South Federal 10-10H	10400058856
Charolais South Federal 11-10H2	10400058845
Charolais South Federal 12-10H	10400058857
Charolais South Federal 13-10H	10400058858
Charolais South Federal 14-10H2	10400058846
Charolais South Federal 15-10H	10400058860
Clear Creek Federal 5-35H	10400060266
Clear Creek Federal 10-35H1	10400060237
Clear Creek Federal 11-35H	10400058552
Clear Creek Federal 12-35H2	10400060246
Clear Creek Federal 13-35H	10400060096
Clear Creek Federal 14-35H1	10400060254
Clear Creek Federal 15-35HSL	10400060099
Clear Creek Federal 16-35HSL2	10400060259
Clear Creek Federal 2-26HSL1	10400060334
Clear Creek Federal 3-26H	10400060336
Clear Creek Federal 4-26H2	10400060305
Clear Creek Federal 6-26H1	10400060328
Clear Creek Federal 7-26H	10400060371
Clear Creek Federal 8-26H2	10400060331
Clear Creek Federal 9-26H	10400060372

Flint Chips 2-5HSL	10400064633
Flint Chips 3-5HSL1	10400064728
Flint Chips 4-5H	10400064732
Flint Chips 5-5H1	10400064733
Flint Chips 9-5H1	10400064738
Flint Chips 10-5H	10400064866
Flint Chips 11-5H1	10400064869
Flint Chips 16-5HSL	10400064870
Harms 3-32HSL1	10400066098
Harms 4-32HSL	10400066102
Harms 5-32H2	10400066103
Harms 6-32H	10400066104
Harms 7-32H2	10400065653
Harms 8-32H	10400065646
Harms 9-32H1	10400065654
Harms 10-32H	10400065655
Harms 11-32H2	10400065656
Harms 12-32H	10400065657
Harms 13-32H1	10400065658



2 OF 11

DESIGNED BY: JP
DRAWN BY: KH
DATE PRINTED: 2-7-20

REVISION	DATE
1	xx/xx/xx
2	
3	
4	

SHEET DESCRIPTION: Project Map
PROJECT NAME: Charolais-Brangus Pipeline
PROJECT NO.: 19-10



CONDITIONS OF APPROVAL (COA'S)

(Revised June 7, 2019 In Accordance With the Dakota Prairie Grasslands Land and Resource Management Plan Dated July 31, 2002 and the Revised Onshore Order #1 Dated May 7, 2007)

Operator: Continental Resources Inc.		API #:	
Well Name/Number: Charolais South Federal 3-10H2, 4-10H, 5-10H1 and 6-10H		Lease/Deed #: NDM-098770	
¼¼: SWSW	Section: 10	Township: 153N.	Range: 94W.

The following project specific and standard COA's shall be made part of the Surface Use Plan of Operations (SUPO) for federal leases or part of the Plan of Operations (PO) for private minerals for the above mentioned well(s) as a condition of approval, consent, and/or permit. If there are conflicts between the SUPO/PO and COA's, the COA's shall apply.

TABLE SHOWS SPECIFIC COAs DEVELOPED FROM THE ENVIRONMENTAL ANALYSIS

Number	Description
1.	A perimeter berm will be required around the well pad through the life of the wells.
2.	Construction activities would not occur from June 10 to July 25 adjacent to identified habitat to avoid vehicle induced injury and death to the adult Dakota skippers during their flight stage. Construction includes ground disturbance, drilling, facility construction and hydraulic fracturing.
3.	USFS restricts the broad application of herbicides that may be harmful to Dakota skippers, their nectar plants, or grasses used by larvae and pupae and specifically require spot treatments and targeting of invasive plants/noxious weeds in Dakota skipper habitat to avoid adverse effects to important native plant species (i.e., no broadcast spraying equipment). Herbicide applications shall occur prior to June 10 or after July 25 each year to avoid the Dakota skipper flight stage. No general broadcast spraying will be allowed. Spot treatment only is allowed to treat invasive plants/noxious weeds in Dakota skipper habitat.
4.	During all construction activities all Dakota skipper habitat will be located and fenced with high visibility fencing and monitored to ensure the overall take of acres is not exceeded and the project is constructed within the approved footprint. Fencing will be planned to allow wildlife and cattle through the project area. The project is allowed to take 4.45 ac direct impacts of presumed Dakota skipper habitat and 5.36 ac indirect impacts of presumed occupied Dakota skipper habitat for construction of the Brangus A access road in Section 15 and 22, T153N, R94W, totaling 10.45 ac and the total degradation of 30.78 ac of presumed occupied Dakota skipper habitat (includes wooded draws) for the construction of the Brangus A and Charolais access roads in section 15 and 22, T153N, R94W during the operation of the oil wells and associated pads and infrastructure.
5.	Prior to construction Continental, USFS and the environmental consultant will "mark" the Dakota skipper habitat that is adjacent to the construction to ensure that all construction remains within the foot print allowed in the Biological Opinion and does not travel outside the boundaries for any reason. The environmental contractor will provide to a shapefile that will include the footprint of the constructed pad, road, utilities and acres of Dakota skipper habitat disturbed. This mapping product will ensure Continental stays within the approved disturbance limits established within the APD and by the consultation requirements of the Biological Opinion.
6.	Dakota skipper populations monitoring would occur within 1km survey prior to construction, and for three years following pad and road construction (after the subgrade inspection has been approved by the Forest Service) of the Project.

	Reports would be submitted to USFS and USFWS including an analysis of population trends for the project area. Monitoring must be completed by USFWS permitted surveyor.
7.	Continental voluntarily agreed to pay \$250,000 to a third party to mitigate offset impacts to Dakota skipper habitat. This money will be applied to restoration(s) of degraded native prairie, conducting baseline population studies of the Dakota skipper, all with a priority focus on USFS property; funds may also be used for permitting on USFS lands, including National Environmental Policy Act documentation. Payments will be made prior to construction activities.
8.	Airborne dust would be reduced during Project construction on existing gravel roads in the Project area by treating with watering solutions containing calcium/magnesium chloride or an alternative with equal or greater effectiveness on dust but with no greater environmental risk. Application would occur at a frequency appropriate to ensure dust moving offsite would be minimized to the extent practicable on all road segments where occupied, assumed occupied or potential Dakota skipper habitat is located (within 131 ft (40 m) of all dust sources associated with the Project). It is estimated that one application would be effective for seven months and thus one application would be required for the duration of each season. Application of chloride solutions would be required Project-wide per USFS. Speed limits of 15mph on the roadways shall be posted and adhered to at all times.
9.	The operator shall provide a report summarizing the following information: a) the extent and location of Dakota skipper habitat removal (Project footprint); b) the frequency and locations of dust abatement activities; c) the verification that calcium chloride (or a functional equivalent) was used as an additive to the watering solution during the construction period; and d) the extent of fugitive dust migration into Dakota skipper habitat adjacent to the Project footprint. The report shall be provided on a monthly basis throughout the construction period with the first report due to the USFWS (North Dakota Field Office) within 45 days of the initiation of construction activities. Monthly reports are to be terminated once all the well pads and associated wells are production-ready. An annual summer inspection (one-time in July) and report by the operator's personnel is required during the operational period to ensure the roads and pads are being maintained with dust abatement measures to minimize the effects of fugitive dust during the oil production/operational period. (USFS Incidental Take Permit, Term and Condition 2). It is the operator's responsibility to have an approved plan from the USFWS to meet the reporting requirements set forth by the USFWS, prior to implementation. Reports will be sent directly to the USFWS and notification of submitted report sent to the USFS.
10.	All disturbances would be reclaimed with a high diversity native seed mix with an emphasis on forb species. The seed mixture will be approved by the Forest Service prior to seeding. This will include a forb rate greater than double the standard pounds per acre.
11.	Construction of all oil pipelines, gas pipelines, saltwater pipelines and flowlines paralleling the access roads will be constructed prior to drilling operations. All lines will be operational prior to producing the wells. All utilities will follow COA's and routes approved through this decision and Forest Service approved road plans.
12.	The Service is to be notified within three working days upon locating a dead, injured or sick endangered or threatened species specimen (see 50 CFR 402.14(i)(I)(v)). Initial notification must be made to the nearest U.S. Fish and Wildlife Service Office of Law Enforcement at (701) 255-0593. Notification must include the date, time, precise location of the injured animal or carcass, and any other pertinent information. Care should be taken in handling sick or injured specimens to preserve biological materials in the best possible state for later analysis of cause of death, if that occurs. In conjunction with the care of sick or injured endangered or threatened species or preservation of biological materials from a dead animal, the finder has the responsibility to ensure that evidence associated with the specimen is not

	unnecessarily disturbed.
13.	If construction is scheduled during the eagle breeding season (February 1 through August 15), prior to on-the-ground activities, the Companies would conduct a raptor survey to determine if there are nesting eagles or other raptors within one mile of the Project boundary. Aerial surveys would be conducted between March 1 and May 15, before leaf-out, so that nests are visible and their status (active or inactive) can be determined. A nesting territory or inventoried habitat would be designated as unoccupied by golden eagles only after at least two complete aerial surveys in a single breeding season. Aerial surveys would include the following, 1) the Companies would record any observations of golden eagle nest sites using a global positioning system. The date, location, nest condition, activity status, and habitat would be recorded for each sighting. 2) the Companies would share the qualifications of the biologist(s) conducting the survey, method of survey, and results of the survey with the USFWS. It is the operator's responsibility to have an approved plan from the USFWS to meet the reporting requirements set forth by the USFWS, prior to implementation. Reports will be sent directly to the USFWS and notification of submitted report sent to the USFS.
14.	If any eagle nests are found to be active, no Project activities would be allowed within 0.5 mile of the nest from February 1 to August 15.
15.	Typically, a Sharp-tailed grouse lek would warrant a timing limitation from March 1 through June 15. However, due to the significant scope of the proposed project, allowing construction to proceed during these dates (March 1 through June 15) for two (2) years from when construction commences and within four (4) years from when the permit is issued would greatly reduce impacts to Sharp-tailed grouse and other wildlife species including federally listed and Forest Service Sensitive species utilizing the project area. This only includes Sharp-tailed grouse lek timing limitations and not others species requirements. This stipulation applies to drilling, testing, and new construction projects, but does not apply to operation and maintenance of production facilities.
16.	Multiple cultural sites were observed within the survey area. Placement of high visibility fence by an OPM qualified archaeologist and monitoring during all ground disturbing activities is required to avoid archaeological sites. If artifacts are discovered, stop work immediately and contact the Forest Service.
17.	Forest Service approved road plans will be required prior to construction and on site at all times during construction.

A. General Stipulations

1. Operations: During siting of production facilities, spill cleanup, and any phase of reclamation, the Operator shall appoint and retain a local Field Representative. Designation shall be in writing, and the representative shall have full authority to act for the Operator. The Operator must conduct operations in accordance with either the approved SUPO or the approved PO. Failure to comply will result in a Notice of Noncompliance. The Forest Service will perform random spot inspections without notification during all phases of the operations to monitor compliance. The Operator shall provide unrestricted administrative access to the Forest Service for the life of the well. A copy of the approved SUPO or PO must be present on the site during drilling, sitting production facilities, and during any phase of reclamation. Failure to produce a copy of the SUPO or PO may result in immediate shut down of operations. This well and access road are permitted under the following:

<input checked="" type="checkbox"/>	Federal Lease SUPO	<input type="checkbox"/>	Private Mineral Deed PO
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Special Use Permit	Private Mineral Deed With Special Use
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2. Other Permits & Permissions: The Operator is responsible for obtaining all of the necessary County, State, and other Federal Agency permissions and permits prior to implementing the SUPO or the PO. This includes any required Forest Service Special Use Permits or Road Use Permits.

3. Botany: Any sensitive or watch plant species found in the project area should be protected and their habitats should be managed to protect the species. This will be coordinated with the Forest Service Botanist.

4. Erosion Control: The Operator shall prevent and control soil erosion and landslides through all stages of the permitted project. Soils and topsoil stockpiles shall be stabilized and vegetated with approved native species. The Operator shall take prompt action to stabilize, repair, and re-vegetate eroded or washed areas and prevent gulying. Forest Service approval is required prior to any earth disturbing activity.

5. Changes in Operator, Company Name, or Address for Special Use Permits or Road Use Permits: The Operator must notify the Forest Service in writing no later than thirty (30) days after a:

- sale or transfer of facilities,
- company name change,
- or a change in address to facilitate the modification
- or re-issuance of Surface Occupancy Permits and/or Special Use (SU) permits
- or Road Use (RU) Permits associated with the well.

Failure to do so may result in shut-in, cancellation, or denied use of the Special Use facilities.

6. Fences, Gates, Cages, and Cattle guards:

a. General: During production reclamation and final reclamation the entire disturbed location will be fenced after seeding. Once the vegetation has been re-established and determined to be satisfactory by the Forest Service, the fenced area shall either be reduced or the fence removed by the Operator as required by the Forest Service.

b. Cattle guard(s): Cattle guards will be a:

- 1) minimum HS-20 load rating if the cattle guard is part of an existing range fence or,
- 2) if the access road will pass through the well pad requiring two cattle guards, and must meet Forest Service standards as specified in 0-619 of the Standard Construction and Maintenance Specifications.
- 3) If the cattle guard is located at the end of the road and at the pad, then the company can determine the standard.
- 4) If a future road passes through the pad then the company standard cattle guard shall be replaced with a HS-20 cattle guard and "Cattle guard Ahead" warning signs shall be installed.

Cattle Guard Maintenance:

- 1) All cattle guards will be maintained as specified in 0-619 Miscellaneous Structures of the Uniform Specifications for Road Maintenance regardless of standard.
- 2) Tie-in fences shall be sound and secured to the wings. Loose rails shall be welded or bolted back in place.
- 3) Excess material from the cattle guard shall be removed when drainage is blocked or when it reaches six (6) inches from the bottom of the cattle guard frame. Drainage to and from the cattle guard shall be kept open.
- 4) A by-pass gate will be installed with all cattle guards.
- 5) **Object Markers** shall be installed and maintained as specified in 0-710, Traffic Services and in accordance with the Manual on Uniform Traffic Control Devices, on all cattle guards.

c. Pad Fences & Gates: Fences will be constructed, within six months of completion of the well, as specified in Appendix B of the *Dakota Prairie Grasslands Land & Resource Management Plan*

(DPG LRMP). A copy of Appendix B and a copy of the *Standards for O&G Fences, Braces, & Gates* are available from the McKenzie or Medora District Office. Any modifications to these specifications require Forest Service approval. The operator is responsible for maintaining the fence in good working order until the final reclamation is approved.

d. Road Closure Devices: All road closure devices shall be approved by the Forest Service prior to installation and shall be installed and maintained as specified in 0-710, Traffic Services and in accordance with the Manual on Uniform Traffic Control Device.

e. Cage(s): Optional cages for protecting facilities cannot be used to replace pad (perimeter) fences and/or cattle guards until the Forest Service determines that the reclamation vegetation is adequate and that the fences can be removed. All cages must be sturdy enough and installed so as to prevent livestock damage to the protected facilities.

7. Fire Prevention & Suppression Requirements:

a. General: To the extent practicable, the Operator, their employees, contractors, and subcontractors, shall take measures to prevent uncontrolled fires on the area of operations and to suppress uncontrolled fires resulting from the operations. The Operator shall promptly report all fires, regardless of size, to 1) the local fire department and 2) the Forest Service office. The Operator is responsible to submit a complete written follow-up Fire Report within 24 hours of reporting a fire. The Operator, and if applicable, the applicable mineral lessees and transferees are jointly and severally liable in accordance with Federal and State laws for indemnifying the United States for: (a) Injury, loss or damage, including fire suppression costs, which the United States incurs as a result of the operations; and (b) Payments made by the United States in satisfaction of claims, demands or judgments for an injury, loss or damage, including fire suppression costs, which result from the operations.

b. Fires: With the exception of approved facilities, open fires (fires for warming, burning wastes, brush disposal, debris, etc.) are prohibited.

c. Fireworks: Fireworks are prohibited on public lands.

d. Exhaust & Arrester Systems: Each internal combustion engine shall be equipped with a manufacturer's approved or equivalent spark arrester or spark arresting device or system.

e. Welding: Welding and use of cutting torches or cutoff saws will be permitted only in areas that have been cleared or are free of all material capable of carrying fire. Flammable debris and vegetation must be removed from within a minimum ten (10) foot radius of all welding and cutting operations or fireproof welding blankets used. There will be no welding when winds exceed twenty (20) miles per hour.

f. Fire Suppression Plan: Upon request from the Forest Service, or when required by regulation, the Operator shall submit a Fire Suppression Plan to be included as part of the Permit Package or Plan of Operations.

g. Failure to Comply: Failure to comply may result in immediate suspension of operations.

8. Haul Route(s) and Off Road Vehicle Travel: The Operator shall limit truck traffic and personnel vehicle use to specified haul routes during the construction, drilling, and reclamation of this well so as to limit resource damage to other roads. Variances or changes must be approved in writing by the District Ranger prior to use. Off road vehicle travel is not allowed unless approved in writing by the District Ranger.

9. Hydrovac: Approval is required prior to hydrovac. There will be no disposing of hydrovac material on Forest Service Lands. Any contaminated hydrovac material must be disposed of at a

State approved facility. Hydrovac holes must be temporarily fenced and/or covered and upon completion, holes shall be backfilled, compacted, topsoiled and seeded with a Forest Service approved seed mix.

10. Noxious Weeds, Invasive Plants & Vegetative Control: The Operator is responsible for the prevention and control of noxious weeds. Minimize or inhibit the spread of invasive species on the surface areas authorized under this plan and any subsequent Sundry Notices, Surface Occupancy Permits, SU/RU Permits, etc. associated with this plan, and on any adjacent areas infested as a result of oil and gas operations. The Operator must keep the area of operations bare of all living and/or dead vegetation. This includes mechanical and/or chemical methods.

a. Integrated Pest Management Program: The Operator must annually coordinate the noxious weed prevention and control plans, as approved within the SUPO or PO, with the Forest Service. The plans shall be reviewed and coordinated annually. The plans may include biological, mechanical, and/or chemical treatments or a combination of all three, as defined within the 2007 Dakota Prairie Grasslands Noxious Weed Management Project.

b. Construction & Drilling Equipment: Remove all mud, dirt, and plant parts from all off road construction and drilling equipment before moving into the project area. If this equipment was recently used on a weed infested site it must be thoroughly cleaned with a pressure washer. Cleaning must occur off National Forest System Lands. This does not apply to service vehicles that will stay on the roadway, traveling frequently in and out of the project area. Likewise, all equipment must be cleaned prior to leaving the project site if operating within infested areas.

c. Borrow Materials (Scoria, Gravel, Dirt, Manure, & Topsoil): It is the Operator's responsibility to obtain borrow materials from pits or sites that have been inspected and certified annually as noxious weed free sites, and approved by the Forest Service prior to use. Certification shall be in writing and shall include the quarter/quarter, section, township, and range, and the name and address of the surface owner. If the Operator is in doubt as to whether a site has been inspected and certified, the Operator may request the individual County Weed Board or the Forest Service to inspect and certify the site.

d. Road Maintenance: Coordinate road maintenance activities with herbicide application to maximize efficiency.

e. Plugged and Abandoned Sites & Road Obliteration: Noxious weeds and exotics should be sprayed prior to reclamation of the site and during the monitoring of the site until released. Use caution not to use herbicides that will have a detrimental effect to any seeding requirements.

f. Chemical Treatment: All chemical treatments must be approved in writing by the Forest Service prior to any surface application. A copy of the approval must be present on the site being treated. Failure to produce a copy of the approval may result in immediate shut down of operations. The following mitigation measures shall apply to the ground application of all herbicides:

- Companies using herbicides for vegetative control or for control of noxious weeds and/or invasive species must annually complete, submit, and have approved prior to use the Pesticide-Use Proposal (Form FS-2100-2) and the Pesticide-Use Proposal Attachment A, Supplemental Information (Form DPG-2100-2A) documents. A current and blank copy of forms 2100-2 and 2100-2A can be obtained from the Forest Service District Office upon request. Do not combine vegetative control use with control of noxious weeds and/or invasive species use on the same forms. Separate forms must be submitted for each.
- Only approved herbicides as specified within the 2007 Dakota Prairie Grasslands Noxious Weed Management Project can be used for chemical treatment. This listing may change from year to year and an approved current listing of vegetative control herbicides can be obtained from the Forest Service District Office upon request.

- Herbicides must be applied under the supervision of a certified herbicide applicator under the laws of the State of North Dakota and must be applied consistent with the instructions on the label.
- Herbicide activity reporting: When you have completed your herbicide treatment and prior to October 1 of each year, you must submit the following information for each site treated and for each herbicide applied on National Forest System lands:
 - i. Date of application
 - ii. Formulation/trade name
 - iii. EPA registration number
 - iv. Name of active ingredient
 - v. Pounds of active ingredient applied to the site
 - vi. Acres treated on the site

In the case of a combination of herbicides being used, you will need to submit the information for each herbicide in the mixture. Failure to submit the reports will delay the permitting of the next Pesticide Use Proposal.

11. Plats: As-built survey plats will be submitted to the Forest Service upon completion of all roads, flowlines, and pipelines, and will be prepared according to As-built Plat Specification Sheet. The specification sheet will be provided by the USFS upon request.

12. Prework: A prework meeting shall be held prior to any/all earth disturbing activities and a starting date established. This will include, at minimum, the Operator or their authorized representative, the dirt contractor, and the authorized Forest Service officer. The Operator is responsible for scheduling and holding this meeting in a timely manner sufficient for resolving any potential problems prior to actual disturbance. A minimum 48-hour advance notice is required. The Forest Service shall be notified in the event the established starting date is changed.

13. Storage Yards & Field Offices: Bone yards, areas of storage and field offices are prohibited.

14. Survey Monuments: The Operator shall protect, in place, all public land survey monuments, private property corners, and Forest Service boundary markers. In the event that any such land markers or monuments are destroyed in the exercise of their rights, depending on the type of monument destroyed, the Operator shall see that they are reestablished or referenced in accordance with (1) the procedures outlined in the "Manual of Instructions for the Survey of the Public Land of the United States", (2) the specifications of the county surveyor, or (3) the specifications of the Forest Service.

15. Water:

a. Water Supply: The borrowing or taking of water from Forest Service lands for use during any phase of construction, drilling, operations, or maintenance is prohibited unless approved as part of the SUPO, PO or SU permit.

b. Water Supply Wells: All water wells approved in the SUPO or PO shall be kept maintained, functional, and protected. The Forest Service reserves the option to assume responsibility of the water well at the time the site is abandoned. The water well will not be plugged and abandoned until that determination has been made.

16. Wildlife & Livestock: Harassment of wildlife or livestock is prohibited. Notify the Forest Service if livestock needs to be moved.

B. Construction (i.e. Well Pad, Access Road, Utilities etc.)

1. Construction Prerequisite (Drilling Rig Availability): Prior to commencing any ground disturbance the Operator shall guarantee that a drilling rig has been obligated and will be available within thirty (30) days of construction. Failure to provide such a guarantee shall delay starting dates.

2. Staking Prior to a Pework: When staking is specified, i.e. for roads, pads, and/or lines, the staking must be completed to standard prior to conducting the prework or the prework will be postponed and rescheduled at a later date. Cut and fill stakes are to remain in place until final Forest Service inspections. Stakes must then be removed by the contractor. Survey stakes are not to be broken off at ground level with ends left in the ground.

a. Well Staking Requirements: All proposed surface disturbance shall be cut and fill staked including: The corners of the well location including the two center directional reference stakes; the exterior pad dimensions; pit locations (if permitted); the outer limits of the area to be disturbed (catch points); and the four corners and/or exterior dimensions of any ancillary (off-location) facilities.

b. Road Staking Requirements: All designed sections will be construction staked to ensure compliance with the survey and design. Cut and fill stakes are to remain in place until final inspection and then promptly removed.

3. Required Documents: All well site, road, line, and/or ancillary facility construction will be consistent with the approved SUPO or PO, which includes a complete set of the approved road plans, well site and ancillary facility plats, additional road construction components, and identified resource mitigation measures. The Operator will provide the Dirt Contractor with a legible copy of the approved SUPO or PO. All or portions of the construction operations may be suspended if the Dirt Contractor fails to have this document on site.

4. Move-On Inspection & Acceptance: The Operator will contact the Forest Service Engineering Representative when the road construction activity is completed and prior to surfacing for a subgrade inspection and acceptance. The Operator will contact the Forest Service Minerals Area Manager when the construction of the pad, pit(s) (without liner(s)) if allowed, and ancillary facilities are completed and ready for final inspection and acceptance. Subgrade acceptance is required prior to surfacing. Prior to use, the road must be inspected and accepted by the Forest Service (prior to moving equipment onto the pad, and prior to use of any ancillary facilities).

5. Borrowing of Materials: The taking or borrowing of soils or topsoil from National Forest System lands or the removal from existing facility stockpiles for construction, maintenance, or other operations is **prohibited**.

6. Winter or Freeze-up Conditions: In the event that road construction activities will occur during frozen ground and/or winter conditions, the Forest Service may modify the construction requirements to provide access and minimize environmental damage. In those cases, the road will be completed to final standards within the next six (6) months. Snow and/or ice will not be incorporated into embankment or be placed to cause damage.

7. Surfacing: The taking or borrowing of clinker/scoria or gravel from Forest Service lands for construction and/or maintenance is prohibited. Gravel must be proven to be free of the mineral erionite through testing procedures established by the North Dakota Department of Health and used by the State Department of Transportation. Test results must be submitted to this office prior to the use of gravel on any surface. No surfacing of excessive size can be used unless approved by the Forest Service.

8. Dust Control: Dust abatement will consist of road surface preparation and application of materials, depending on the time of year. Fresh water, may be used for dust abatement during dry periods of the year. Materials other than fresh water will require approval of the Forest Service and shall meet specifications furnished by the Forest Service. When fresh water is the selected material, it shall be applied as often as necessary to abate dust throughout the duration of construction, drilling, and

completion operations. The rate of application shall be such that the selected material will not run off the surface and cause pollution or unnecessary waste.

9. Maintenance: The Operator is responsible for maintaining all permitted roads as per the approved road design(s). If the road segment(s) is included within a road maintenance agreement, the Operator shall cooperate with the maintenance group and contribute to the maintenance and improvement of all included roads.

10. Cultural/Paleontological Resources: If, prior to or during any disturbance activity, items of archaeological, paleontological, or historic value are reported or discovered, or an unknown deposit of such items is disturbed, the Operator will immediately cease disturbance activities in the affected area and notify the Forest Service. Disturbance activities will not resume until the Forest Service gives approval.

11. Pits:

a. Flare Pits: Flare pits will not be constructed in, upon, or near coal seams. All flare pits will be constructed with impermeable dikes so that any discharge from the flare stack will be contained within the pit. Flare pits constructed in sand or clinker/scoria seam, will be lined with a minimum of six (6) inches of compacted clay. This may require the re-sloping of the pit walls. Flare pit igniters will be functional. The Operator must maintain vegetative and weed control on the area of operations including a (30) thirty-foot minimum bare ground area around the flare stack.

b. Cuttings Pits Prohibited & Tanks Required: This well will be drilled with a closed system and an open cuttings pit is not allowed nor permitted. All drilling fluids and cuttings shall be contained in tanks. Fluid levels shall be continually monitored and excess fluids shall be hauled off to a proper disposal facility. Upon completion of the drilling of the well, the Operator shall remove and properly dispose of the fluids and cuttings at a State approved facility.

c. Production Pits: Production pits are prohibited. During drilling, testing, and establishing production, all fluids shall be contained in tanks.

12. Pipelines:

a. Construction: The Operator is responsible for locating and protecting existing underground pipelines and power lines. Centerline location will be staked by the Operator and approved by the Forest Service. Construction width shall not exceed (50) fifty feet. Operation and maintenance width shall be limited to twenty (20) feet, unless otherwise approved by Forest Service. All lines shall be installed ten (10) feet from existing lines and will be buried at a minimum depth of four (4) feet below the surface. A line crossing a stream or creek shall be double cased and buried or bored a minimum of eight (8) feet below channel bed elevation unless otherwise authorized by the Forest Service. A heavier gauged (thicker walled) line may also be used for the crossing but requires prior approval from the Forest Service.

Backfill shall be compacted in one (1) foot lifts from a three (3) foot depth to the surface. Excess soil will be windrowed or bermed over the line for settlement. Care will be taken to eliminate all potential concentrations of water on the disturbed area or to block natural drainages. Non-ferrous pipe that is not encased must have an electrically conductive wire or other means of locating the pipe while it is underground. No permanent above ground lines are allowed between the wellhead and treater, between the wellhead and tank battery, or anywhere vehicles would need to cross them.

b. Cattle: A minimum of three (3) pass-through's per mile to allow cattle/wildlife access to either side of the line will be provided during construction.

c. Weather: All line construction activities are subject to immediate suspension during periods of wet weather. During below-freezing weather, when the topsoil and subsoil are frozen solid, all construction activities will be suspended immediately unless approval to proceed has been granted

by the Forest Service. If winter construction is approved, additional stipulations will be in effect which will be provided to the company by the Forest Service (Winter Construction of Pipelines or Flowlines).

d. Completion & Final Inspection: The Operator will contact the Forest Service when the construction activity is complete so the Forest Service can make a final inspection and document its acceptance or identify the specific items, which do not meet acceptable standards. Within 180 days of placing into service, the Operator shall submit to the Forest Service a geographic information system layer, using North American Datum 83 Geographic Coordinate System (GCS) and in an Esri Shape File format, showing the centerline location. Each layer shall contain, at minimum, the following information:

- 1) line diameter;
- 2) wall thickness;
- 3) composition;
- 4) pressure rating;
- 5) product type;
- 6) line depth;
- 7) line name; and
- 8) any other information deemed necessary by the Forest Service.

In addition, line markers shall be installed over each line where it is necessary to indicate the presence of a line at a road, highway, railroad, fenceline, property boundary, and stream crossings, along the remainder of the line at locations where there is a probability of damage or interference, and in sufficient numbers along the remainder of the buried line so that the line location and direction is adequately known. Markers shall be maintained so that they can be easily read and are not obscured.

e. Within Existing Right of Ways (ROWs): When construction or maintenance of pipelines or related facilities occurs within an existing road right-of-way (ROW), it is the Operator's responsibility to obtain prior written permission from the Operator of any easement, project work agreement, SU/RU permit or encroachment permit on the affected portion of the road. Following construction or maintenance activities, the Operator shall return the roadway to its original condition including compacting, seeding and surfacing, if necessary. The Operator is also responsible for any future road reconstruction or maintenance needs resulting from this activity, such as compaction necessitated by pipeline settling, unless released from this liability by the Operator of the applicable easement, project work agreement, SU/RU permit or encroachment permit.

f. Valves & Risers: Installation, replacement, and/or removal of valves and risers shall be approved by the Forest Service prior to ground disturbance. All entry points on any culvert riser or wood structure, which allow human access to a buried line or valve(s), shall be kept closed.

g. Maintenance: The Operator shall maintain lines so as to prevent and/or repair settling, washouts, erosion, and loss of vegetative cover. The borrowing of fill or replacement materials from Forest Service lands is not allowed.

h. Abandonment: Prior to abandonment, the Operator shall notify the Forest Service of the need for abandonment and shall provide an Abandonment Plan for approval. If possible, any pipelines located within the well pad shall be removed upon abandonment.

13. Road Management Plan: There will be approximately 2.237 miles of access road(s), NFS #882 and #8821, constructed on NFS lands to provide year round access to the well site. The access road(s) will be constructed and maintained according to design standards and guidelines found in the approved road plans, Forest Service Road Management Plan, and/or *The Gold Book*.

C. Drilling and Completion

1. Temporary Flare Pits: During drilling, temporary flare pits will be diked so that all liquids will be contained in the event of a spill. Use of topsoil for dike material is prohibited.

2. Wastes:

a. Trash, Garbage, Junk, Debris, etc.: During drilling/production, portable dumpsters will be used for all trash. All trash will be hauled off site; no burning or burying will be allowed. No trash will be disposed of in the cuttings pit (if permitted). Doors, covers, and/or lids will be kept closed.

b. Sewage: Any sewage will be disposed of according to county and state requirements in portable chemical toilets and/or approved facilities. No sewage wastes shall be buried on location and/or disposed of on National Forest System Lands. The Operator will perform and document routine inspections (minimum of 2-3 times per week) to monitor fluid levels in both fresh and wastewater tanks. Upon request the Operator shall provide the Forest Service with copies of the documentation.

The system must be "Closed" ensuring that there are no open or exposed tanks, catch basins, etc. All waste tanks and/or any other sewage treatment vessel shall be placed within a holding area surrounded on all four sides by an impermeable dike/berm of sufficient capacity to adequately contain the contents of the largest vessel. The holding area shall have a liner with a minimum burst strength of 140 pounds per square inch (psi). Tanks/vessels can be placed within a larger tank such as a stock tank, etc. and will meet this requirement as long as the larger tank is of sufficient capacity. Sewage systems are for sewage wastes only. The Operator is responsible for preventing the freeze-up of the sewage lines and storage vessels. Heating tapes, tank heaters, etc. shall be used as needed. All sewage spills shall be promptly reported to the Forest Service, and a treatment plan developed, submitted, and approved prior to any treatment.

c. Production Fluids: During drilling, completion, testing, and establishing production, all fluids shall be contained within tanks. Tanks will be diked with impermeable materials and under-lined with a hydrocarbon resistant pit liner. Other drilling wastes such as rig wash, manifold drips, etc., shall be properly disposed of in a state approved disposal facility.

d. Equipment Fluids: Motor oil, hydraulic fluids, brake fluids, antifreeze, etc. will be properly disposed of off Forest Service lands. Disposal of these types of fluids within pit(s) is prohibited. Soils contaminated by these fluids shall be treated as specified by the Forest Service.

3. Rig Release & Stacking: The Operator shall notify the District Ranger of the drilling rig release date within two (2) working days of that date. The drilling rig shall be removed from the location within thirty (30) calendar days of the completion of drilling. Drilling rig or rig matting washing on the location is prohibited. No stacking of rigs is allowed.

D. Production

1. Area of Operations: The area of operations shall be maintained in a neat and safe manner and in accordance with the conditions herein regardless of well status. The area of operations during the production phase is the working area of the well pad which has not been reclaimed and which includes but is not limited to, the production facilities, all diked areas, fifteen (15) feet outside of the anchors (dependent upon anchor spacing), and any area used by vehicles regardless of frequency.

2. Wind Direction Indicator: A functional wind direction Indicator (windsock) is required on all locations and must be placed on the tank battery so it is visible from everywhere on the location.

3. Water Control & Drainage: The Operator shall implement BMPs to control water run-off so as to control soil erosion and prevent damage to facilities. BMPs could include, but are not limited to,

geotextiles, mulching, riprap, seeding, soil roughening, fiber rolls, water bars, straw wattles, and silt fences. During the production phase of the well, drainage ditches will be established and maintained on the pad to divert water away from the area of operations. Standing water and/or puddles will not be allowed. Pad drainage devices such as valves, pipes, etc. will not be allowed. Pad drainage is at the discretion of the Forest Service and prior approval is required. Upon request the Operator will provide the Forest Service Officer with water sample testing results. Adequate clinker/scoria or gravel will be used on the area of operations to prevent muddy or soft ground conditions causing vehicles to rut or sink.

4. Chemicals & Storage: Upon request, the Operator will provide the Forest Service with an inventory of the kinds, amounts, and hazards of all chemicals, additives, mud materials, and/or any other substances used during drilling and/or production of the well. All containers used for chemical storage during production will be properly labeled with chemical name and hazards. The maximum number of chemical containers on location shall not exceed two (2) per chemical type unless authorized by the Forest Service prior to use. Excess containers shall be neatly stored and empty containers shall be promptly removed. Chemical containers laid or turned on their side shall be supported off the ground in a sturdy cradle or stand equipped with a drip pan or catch basin.

5. Dikes/Berms: If production facilities are constructed, each and every vessel containing production fluids of any kind must be surrounded below (base) and on all four sides by an impermeable dike/berm/steel of sufficient capacity to adequately contain the contents of the largest vessel within the dike plus one day's production. In addition, flares shall also be surrounded by a dike/berm to contain any discharge of fluids. Dike material shall be free of oil, saltwater and/or other waste materials. Dike capacity will be calculated at the lowest point on the dike. The base or floor of the containment area shall be lined with a minimum of six (6) compacted inches of clay or other pre-approved impermeable material. If the dike area is constructed on sand, coal, clinker/scoria, or other porous materials, the base will be lined with twelve (12) compacted inches of clay and must also have a minimum 300 psi liner installed. Metal walkway(s) over the dike are encouraged so as to prevent the wearing down or beating down of the dike walls. Vessel containing facilities include but are not limited to individual tanks, tank batteries, heater treaters, separators, line heaters, etc. Dikes shall be kept bare of all living and/or dead vegetation.

6. Electric Lines: All electric lines will be buried a minimum of forty-two (42) inches. Overhead lines and power poles with transformers are prohibited. Poles for outdoor lights, if approved, shall not exceed (30) thirty feet in height. Poles will be buried a minimum of six (6) feet deep.

7. Facilities (Equipment & Accessories):

a. Existing Facilities & Improvements: The Operator shall protect, in place, all existing facilities and/or improvements; fences, underground flowlines, pipelines, electric lines, etc.; and shall repair or replace any damage as a result of actions or operations from this well. This includes existing range water facilities and/or improvements; pipelines, stock tanks, valves, drains, etc. All repairs or replacements to these facilities will be done in accordance to the Dakota Prairie Grasslands Standard Specifications for Construction of Range Water Distribution Systems (10/2007) and will not take place until approved by the Forest Service. If the action taken on a range water facility results in the interruption of water that is needed by the grazing permittees the Operator is responsible, in coordination with the Forest Service, for providing an alternate source of water until the range water facility has been returned to service.

b. Production Facilities Location: The production facilities and tanks for this well will be located:

<input type="checkbox"/> On <input checked="" type="checkbox"/> Off		<input checked="" type="checkbox"/> Federal Lease		<input type="checkbox"/> Private Mineral Estate	
1/4: NWSE	Section: 15	Township: 153N		Range: 94W	

c. Production Facilities Plan: The volume of production determines the amount of production facilities needed. Prior to siting production facilities, the Operator shall notify the Forest Service and request a prework meeting/field review. During that meeting it shall be determined if the

SUPO or PO adequately covers the actual production needs. If the SUPO or PO is sufficient, the facilities can be set. A distance of 125 feet must be maintained between all production facilities (i.e. between wellbore and heater treater, wellbore and tanks, etc.) unless approved otherwise by the Forest Service.

d. Siting Production Facilities on Fill: It is undesirable to locate production facilities on fill material because of settling. However, in the event that the tank battery or heater treater(s) cannot be located on the cut portion of the pad, the fill material beneath must be compacted according to T99, Method C specifications as described in Section 204.11(c), of FP-14 Standard Specifications and Supplements for Construction of Roads and Bridges on Federal Highway Projects. T99, Method C compaction generally cannot be achieved between freeze-up through spring thaw. If siting permanent production facilities after freeze-up and prior to spring thaw the facilities will be lined with a minimum 300 psi liner.

e. Changes To Production Facilities: If the Operator plans to add or remove facilities (equipment) that involve change in the original SUPO or PO, a detailed written statement of the work shall be filed and approved in writing, prior to the work being started. Statements shall include attached maps, diagrams, etc. as needed. Facility changes on Federal Leases shall be submitted on a BLM Sundry Notice, Form 3160-5, to the BLM, who will forward it to the Forest Service. On private mineral estates, the Operator can submit a similar form, a North Dakota State form, or submit the request by letter directly to the Forest Service.

f. Excessive Facilities: Facilities not approved and/or not in use shall be promptly removed from the location.

g. Condition & Maintenance: All facilities shall be functional and kept maintained to prevent resource damage or shall be promptly removed from the location.

h. Animal Protection: All facilities shall be designed and maintained to ensure that livestock, wildlife, domestic animals, flying mammals, and both migratory and non-migratory birds cannot get into nor can be harmed from facilities.

i. Lights Outdoor: Outdoor area lighting fixtures will be allowed on production facilities but may only be used when personnel are present on location. Motion sensor lights are prohibited.

j. Lines: Open Ended Lines, Load Lines, Vent Lines, Valves, and Catch Basins: Any open-ended line or valve on any production facility will have catch basins installed at the point of hook-up or where the line is open or beneath the valve to capture drips and spills. They shall be of an adequate capacity and securely fastened or buried to prevent being moved in the wind and shall be kept screened and promptly emptied when full. Load (truck) lines must terminate within the diked area. Tank battery vent lines, if not routed to the flare pit, must terminate within the diked area to prevent spills outside the tank battery.

k. Noise Control (mufflers): All internal combustion engines associated with production facilities will be equipped with functional noise-reducing mufflers. The Operator must comply with any other Federal, State, County, or Municipal Laws, ordinances, or regulations pertaining to noise control.

l. Paint: All above ground facilities, equipment, and accessories, including propane tanks, unless otherwise specified by the Forest Service, will be painted earth tone color **Carlsbad Canyon (2.5Y 6/2)** (Munsell Soil Color Chart) within six (6) months of the well completion and maintained as such to comply with the Visual Quality Objectives. Approved offsetting colors for moving parts, weights, horsehead, etc. can be either Sudan Brown (2.5Y 4/2) or flat yellow or similar approved colors. All paints that are offsetting colors must be flat. Up to a 30 to 35% gloss mix is allowed in the paint mix for facilities to allow for added durability and protection.

8. Safety: The Operator shall maintain structures, facilities, improvements, and equipment in a safe manner and must take appropriate measures to protect the public from hazardous sites or conditions resulting from the operations.

9. Signs: All signs shall be approved by the Forest Service prior to installation and kept maintained in accordance with the Manual on Uniform Traffic Control Devices.

a. Well Sign: The Operator shall install and maintain a legible and durable well sign showing the well number, name of Operator, lease serial number, surveyed location (quarter/quarter, section, township, range). The sign shall be legible under normal conditions at a minimum distance of fifty feet.

b. Markers: All markers such as anchors, pipeline, etc., shall be kept maintained and painted as specified.

c. Hydrogen Sulfide (H₂S): The Operator shall provide on- and off-site signs warning of the dangers of hydrogen sulfide around developed oil production sites that have the potential to produce H₂S.

10. Leaks, Spills, & Other Undesirable Events: It is the Operator's responsibility to know and comply with the most current Forest Service spill reporting and containment requirements. Current requirements are listed under the Notice to Lessee: NTL-DPG-98-1. Contact the McKenzie or Medora Ranger District office for a copy of the NTL if needed.

All spills (any soils saturated from oil, water, or chemical during any operational activity including but not limited to drilling, completion, production, transporting, work-over, etc.) or pipeline breaks shall be promptly contained, reported as specified in the NTL, and then promptly cleaned/treated. Cleanup operations will be reviewed and approved by the Forest Service prior to clean up with Forest Service recommendations for action followed. Soils contaminated and/or saturated as a result of a spill will not be buried or reburied as a means of treatment or disposal. Areas that have been subject to previous spills and/or saturation may have to be tested for hydrocarbons and salt concentrations prior to final reclamation. Upon request, the Operator shall employ the services of a Forest Service approved independent testing lab to collect and conduct the testing.

E. Abandoned Well, Interim and Final Reclamation

1. Road Reclamation: Upon plugging and abandonment of the well, the Operator will notify the Forest Service for a final determination of whether the road is to be retained by the Forest Service or reclaimed by the Operator. Roads retained by the Forest Service must meet approved road construction standards. Upon acceptance of the road, liability for the road would be transferred from the Operator to the Forest Service.

2. Reclamation Sign: Upon completion of the final reclamation and fencing of the site, the well sign or a similar type of sign shall be installed on or near the fence or gate at the point where the access road would have entered the pad. The sign requirements are the same as for the producing well sign.

3. Prework Meeting(s): A prework meeting is required prior to implementing any reclamation work and/or plan.

4. Reclamation Plan(s): Plans for surface reclamation must be designed to return the disturbed area to productive use and to meet the objectives of the DPG LRMP. Such plans must include, as appropriate: Configuration of the reshaped topography, drainage systems, segregation of spoil materials (stockpiles), surface disturbances, backfill requirements, proposals for pit/sump closures, redistribution of topsoil, soil treatments, seeding or other steps to reestablish vegetation, weed control,

and practices necessary to reclaim all disturbed areas, including any access roads and pipelines. There are two required plans:

Interim (Production) Reclamation: The number of the production facilities (i.e. tanks, treaters, pumps, etc.) affects the size of the pad needed for production and the amount of the pad that can be reclaimed during production reclamation. All areas not needed for production shall be reclaimed, stabilized, and seeded until final reclamation occurs.

Final Reclamation: During final reclamation the entire area including the pad and the areas reclaimed under interim reclamation shall be reclaimed, stabilized, and seeded during final reclamation.

5. Contouring: All earth cut or fill slopes favorable to vegetation or other areas on which ground cover is destroyed in the course of construction, reconstruction, or heavy maintenance will be reclaimed and revegetated. All slopes and contours will be shaped and smoothed near the original contour. Care will be taken to eliminate all potential concentrations of water on the disturbed area.

6. Erosion Control: After contouring the Operator shall utilize BMP's to prevent and control soil erosion. BMPs could include, but are not limited to, geotextiles, mulching, riprap, seeding, soil roughening, fiber rolls, water bars, straw wattles, and silt fences.

7. Winter Freeze-up: In the event of winter freeze-up, reclamation will be put on hold as determined by the Forest Service.

8. Topsoil: It is advantageous to the Operator to conduct a joint site survey in advance, with the Forest Service, to determine all available topsoil quantity. Topsoil shall be stripped where disturbance will occur and be deposited in a pile apart from other excavated material to reduce potential mixing with subsoil material. After the desired amount of material has been removed, and the resulting slopes and ditches (cuts and fills) have been shaped and smoothed as required, the stockpiled topsoil shall be evenly spread over exposed subsoil to the extent practicable. During production reclamation, not all topsoil may be used. Excess topsoil is to be piled, seeded and protected until final reclamation occurs. Excess topsoil will not be removed from the site for any other uses. When final reclamation occurs, the topsoil used during production reclamation will be stripped and used with the excess topsoil for final reclamation. During final reclamation, if the site is short of topsoil, the Operator shall import an adequate amount of certified weed seed free clean topsoil to meet the reclamation requirements. A written certification report shall be submitted to and approved by the Forest Service prior to use.

9. Pads & Roads: During construction after grading is completed and before applying revegetation measures, areas to be revegetated shall be raked or otherwise cleared of sticks, stumps, stones, and other debris, which might interfere with sowing of seed, growth of grasses, or subsequent maintenance of grass covered areas. If any damage by erosion or other causes occurs after the completion of grading and before beginning the revegetation work, the Operator shall repair such damages. This shall include filling gullies, smoothing irregularities, and repairing other incidental damage. Immediately in advance of the seeding, any crusted surface shall be scarified at right angles to the slope plane.

10. Pipelines & Flowlines & Trenched Electric Lines: Pipeline and/or flowline and/or trenched electric line reclamation outside the area of operations must be completed by the end of the next suggested seeding or planting season. As a general guideline under normal weather conditions this timetable will allow adequate time for the line and berm to settle. The line shall then be reworked to repair erosion, settling, washouts, gullies, etc. The berm shall be reduced and spread to blend with natural contours, and the area seeded with Forest Service native seed mix.

11. Time Frames for Completing Reclamation:

a. Well Sites Constructed and Not Drilled: If this oil well site is constructed and not drilled, the site and access road must be reclaimed, or Forest Service approved erosion control measures implemented, within ninety (90) days of site construction, unless otherwise approved in writing by the Forest Service.

b. Producing Wells: If this well is a producer, all production reclamation must be completed within six (6) months and in conjunction with the Production Facilities Plan. Variances may be granted by the Forest Service for certain situations such as: multi-well pads, timing limitations, weather conditions, etc.

c. Well Drilled & Temporarily Abandoned or Shut-in: If this well is drilled and then temporarily abandoned or shut-in after drilling, production reclamation must be completed within six (6) months.

d. Dry Hole Well(s) Drilled & Plugged and Abandoned: If this well is a non-producing well upon completion of drilling, the entire location and access road must be reclaimed within six (6) months.

e. Plugged & Abandoned (P&A'd) Well: For all previously producing, injection, disposal, and/or other wells that have been plugged and abandoned, the entire location, related facilities, and access road must be reclaimed within six (6) months of plugging. In the case of multi-well pads this timeline would apply to the last producing well on location.

f. Deepen, Re-drill, etc.: If this well is re-entered for any purpose, all production reclamation must be completed within six (6) months and in conjunction with the Production Facilities Plan.

g. Ancillary Facilities & Tank Batteries: Any related ancillary facility or off site tank battery shall have all facilities removed and the site reclaimed in the same timeframe as the related well. If the site is no longer joined with a well, the site will be reclaimed within six (6) months upon completion of use or notification from the Forest Service unless otherwise approved by the Forest Service.

h. Time Frames for Releasing Reclamation: Generally most sites can be released within three to seven (3-7) years of seeding. However, this is dependent upon three variables: adequate moisture; achieving vegetative cover that is representative of the seed mixture and 70% of the surrounding area; and achieving a minimum of three consecutive growing season without disturbance and/or damage. It is important to maintain all fences and gates to keep livestock out of the reclaimed area.

12. Seeding & Certification: A copy of the native seed mixture tag shall be supplied to the Forest Service for approval **prior** to seeding. Upon completion of seeding the Operator shall notify the Forest Service of the seeding date. All reclaimed areas will be seeded with Forest Service approved native seed mixtures. The most current seed mix, as well as the most current recommended seeding methods, will be included in the reclamation plans.

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

CONTINENTAL RESOURCES, INC.

(b) County of Residence of First Listed Plaintiff Oklahoma County, OK
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

L Poe Leggette & Alexander K. Obrecht, BAKER & HOSTETLER LLP
1801 California Street, Suite 4400, Denver, CO 80202
303.861.0600

DEFENDANTS

SCOTT DE LA VEGA, in his official capacity as Acting Secretary of the
U.S. Department of the Interior and THE UNITED STATES
DEPARTMENT OF THE INTERIOR

County of Residence of First Listed Defendant _____

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input checked="" type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

30 U.S.C. §§ 181-287; 5 U.S.C. §§ 701-706

Brief description of cause:

Defendants violated 5 U.S.C. § 701 (APA), 30 U.S.C. § 226 (Mineral Lease Act)

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION DEMAND \$

UNDER RULE 23, F.R.Cv.P.

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

February 22, 2021

SIGNATURE OF ATTORNEY OF RECORD

/s/ L. Poe Leggette

FOR OFFICE USE ONLY

RECEIPT # _____

AMOUNT _____

APPLYING IFP _____

JUDGE _____

MAG. JUDGE _____