

COMMENTS	RESPONSES
<p data-bbox="67 316 157 373">69. Cont.</p> <div data-bbox="216 310 932 1242" style="border: 1px solid black; padding: 10px;"> <p data-bbox="247 334 903 557">38) On page 4-88, the phrase “population numbers significantly depressed” is not defined in the Glossary or in the definition for “Major” under “Impact Intensity Thresholds”. NPS must define what “population numbers significantly depressed” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="247 578 903 800">39) On page 4-88, the phrase “long-term decrease in population levels” is not defined in the Glossary or in the definition for “Major” under “Impact Intensity Thresholds”. NPS must define what “long-term decrease in population levels” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="247 821 903 1003">40) On page 4-89, the phrase “often greatly reduced” is not defined in the Glossary. NPS must define what “often greatly reduced” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="247 1024 903 1224">41) On page 4-92, the phrase “relatively short-term duration” is not defined in the Glossary. NPS must define what “relatively short-term duration” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> </div> <p data-bbox="863 1317 884 1336">15</p>	

COMMENTS	RESPONSES
<p>69. Cont.</p> <div data-bbox="210 310 926 1289" style="border: 1px solid black; padding: 10px;"> <p>42) On page 4-93, 4-94, 4-108, the phrase “viability of habitats” is not defined in the Glossary. NPS must define what “viability of habitats” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p>43) On page 4-93, 4-94, 4-108, the phrase “survivability of species” is not defined in the Glossary. NPS must define what “survivability of species” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p>44) On page 4-94, the phrase “viability of populations” is not defined in the Glossary. NPS must define what “viability of populations” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p>45) On page 4-96, the phrase “least-damaging site” is not defined in the Glossary. NPS must define what “least-damaging site” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p>46) On pages 4-99 and 4-108, the phrase “resiliency of the local populations or wildlife populations” not defined in the Glossary, NPS must define what “resiliency of the local populations” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to</p> </div> <p style="text-align: center;">16</p>	

COMMENTS	RESPONSES
<p data-bbox="86 318 153 375">69. Cont.</p> <div data-bbox="210 310 926 1273" style="border: 1px solid black; padding: 10px;"> <p data-bbox="243 342 894 444">describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="243 464 894 646">47) On page 4-99, the phrase “long-term incremental loss” not defined in the Glossary. NPS must define what “long-term incremental loss” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="243 665 894 886">48) On page 4-102, the phrase “would be noticeably impacted” not defined in the Glossary or in the definition for “Moderate and Major” under “Impact Intensity Thresholds”. NPS must define what “would be noticeably impacted” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="243 906 894 1088">49) On pages 4-103 and 4-107, the phrase “qualified biologist” not defined in the Glossary. NPS must define what “qualified biologist” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="243 1107 894 1250">50) On page 4-105, the phrase “appreciably increase” not defined in the Glossary. NPS must define what “appreciably increase” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify</p> </div> <p data-bbox="863 1321 884 1338">17</p>	

COMMENTS	RESPONSES
<p data-bbox="86 302 153 354">69. Cont.</p> <div data-bbox="216 289 930 1268" style="border: 1px solid black; padding: 10px;"> <p data-bbox="254 334 903 373">and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="254 396 903 597">51) On page 4-105, the phrase “limited to a localized area and relatively short-term duration” is not defined in the Glossary. NPS must define what “limited to a localized area and relatively short-term duration” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="254 620 903 821">52) On pages 2-24, 2-94, 4-105, and 4-106, the phrase “appropriate mitigation” is not defined in the Glossary. NPS must define what “appropriate mitigation” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="254 844 903 1045">53) On page 4-108, the phrase “no adverse impacts on species of special concern” not defined in the Glossary. NPS must define what “no adverse impacts on species of special concern” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="254 1068 903 1269">54) On page 4-108, the phrase “viability of species” not defined in the Glossary. NPS must define what “viability of species” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> </div> <p data-bbox="863 1320 884 1336">18</p>	

COMMENTS	RESPONSES
<p data-bbox="86 313 153 367">69. Cont.</p> <div data-bbox="212 310 926 1289" style="border: 1px solid black; padding: 10px;"> <p data-bbox="245 337 896 521">55) On page 4-112, the phrase “long-term viability” not defined in the Glossary. NPS must define what “long-term viability” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="245 542 896 743">56) On page 4-117, the phrase “lowest levels of detection” not defined in the Glossary or in the definition for “Negligible” under “Impact Intensity Thresholds”. NPS must define what “lowest levels of detection” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="245 764 896 966">57) On page 4-117, the phrase “loss of integrity” not defined in the Glossary or in the definition for “Minor, Moderate, and Major” under “Impact Intensity Thresholds”. NPS must define what “loss of integrity” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="245 987 896 1188">58) On page 4-117, the phrase “active intervention” not defined in the Glossary or in the definition for “Minor, Moderate, and Major” under “Impact Intensity Thresholds”. NPS must define what “active intervention” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="245 1209 896 1271">59) On page 4-119, the phrase “qualified archeologist” not defined in the Glossary. NPS must define what “qualified archeologist” means so that the public can review, comment on, and understand what NPS is referring to.</p> </div> <p data-bbox="867 1320 888 1336">19</p>	

COMMENTS	RESPONSES
<p>69. Cont.</p> <div data-bbox="212 310 930 1297" style="border: 1px solid black; padding: 10px;"> <p>Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p>60) On page 4-128, the phrase “barely detectable” not defined in the Glossary or in the definition for “Negligible” under “Impact Intensity Thresholds”. NPS must define what “barely detectable” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p>61) On page 4-128, the phrase “slightly detectable” not defined in the Glossary or in the definition for “Minor” under “Impact Intensity Thresholds”. NPS must define what “slightly detectable” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p>62) On page 4-128, the phrase “readily apparent” not defined in the Glossary or in the definition for “Moderate” under “Impact Intensity Thresholds”. NPS must define what “readily apparent” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p>63) On page 4-130, the phrase “more substantial” not defined in the Glossary. NPS must define what “more substantial” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as</p> </div> <p style="text-align: right;">20</p>	

COMMENTS	RESPONSES
<p data-bbox="67 310 157 370">69. Cont.</p> <div data-bbox="210 305 924 1291" style="border: 1px solid black; padding: 10px;"> <p data-bbox="247 331 894 391">outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="247 412 894 618">64) On page 4-131, the phrase “should not interfere substantially with” is not defined in the Glossary. NPS must define what “should not interfere substantially with” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="247 639 894 857">65) On page 4-142, the phrase “would be considered slight, local” is not defined in the Glossary or in the definition for “Negligible” under “Impact Intensity Thresholds”. NPS must define what “would be considered slight, local” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="247 878 894 1084">66) On page 4-142, the phrase “changes would be small” is not defined in the Glossary or in the definition for “Minor” under “Impact Intensity Thresholds”. NPS must define what “changes would be small” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="247 1105 894 1263">67) On page 4-142, the phrase “would likely succeed” is not defined in the Glossary or in the definition for “Moderate” under “Impact Intensity Thresholds”. NPS must define what “would likely succeed” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify</p> </div> <p data-bbox="863 1312 884 1333">21</p>	

COMMENTS	RESPONSES
<p data-bbox="92 310 155 358">69. Cont.</p> <div data-bbox="210 315 926 769" style="border: 1px solid black; padding: 10px;"> <p data-bbox="243 334 892 375">and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="243 396 892 639">67) On page 4-142, the phrase “would have readily measurable impacts with substantial consequences” is not defined in the Glossary or in the definition for “Major” under “Impact Intensity Thresholds”. NPS must define what “would have readily measurable impacts with substantial consequences” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p data-bbox="243 660 892 761">68) On page 4-152, Irreversible or Irretrievable Commitments of Resources, the phrase “pre-disturbance condition” is not defined in the Glossary. NPS must define what “pre-disturbance condition” means so that the public can review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information.</p> </div> <p data-bbox="522 781 606 797" style="text-align: center;">Summary</p> <p data-bbox="113 794 155 818">70.</p> <div data-bbox="210 802 926 1279" style="border: 1px solid black; padding: 10px;"> <p data-bbox="243 821 892 980">1) On page S-1, Purpose and Need for This Plan, and pages 2-61-2-70, the Sierra Club disagrees with NPS when it states that “NPS specific regulations only apply to nonfederal oil and gas operations occurring within park boundaries.” In fact those operations that are connected to the slant drilling under the BTNP must comply with NPS requirements as noted by those who created the regulations in the late 1970’s and as required by stipulations and mitigation measures that allow wells to have the plan of operations (POO) waived. See Attachment 1.</p> <p data-bbox="243 1002 892 1203">In addition, in Appendix I, National Park Service Well Plugging Guide for Nonfederal Oil and Gas Wells in the State of Texas, NPS states that, “The NPS regulates plug and abandonment operations for all wells in National Park Units that are reached by crossing Federal Property. Even wells that have been exempt from NPS regulatory requirements often lose their exempt status when they are to be plugged and abandoned.” Due to NPS’s failure to accept its responsibility to regulate slant wells under BTNP and due to changes in 9B regulations which were re-interpreted without a public review and comment period, the Sierra Club and TCONR has sued NPS to ensure that National Park System natural resources are fully protected.</p> <p data-bbox="243 1224 892 1265">The NPS must give a full explanation about the re-interpretation of the 9B regulations for directionally drilling and producing the well from a surface location</p> </div>	<p data-bbox="1058 794 1283 818">70. See Response 46.</p>

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<p data-bbox="86 318 153 375">70. Cont.</p> <div data-bbox="197 318 911 805"> <p data-bbox="226 337 882 537">outside the boundaries of the BTNP. The Sierra Club disputes the assertion that the NPS is interpreting its 36 CFR 9B regulations appropriately. The record is replete with NPS back-tracking on these regulations and re-interpreting them without public input as required in the Federal Register. The NPS relies on a "draft" solicitor's opinion that is not final. "Draft" means that the opinion is not final. The Sierra Club requested a copy of this "draft" opinion via the Freedom of Information Act (FOIA) but NPS refused to provide a copy, claiming attorney-client privilege. An appeal has been pending since September 8, 2003 for information about NPS activities connected with this re-interpretation of the 9B regulations.</p> <p data-bbox="226 561 882 802">The NPS has in its files interviews with some of the persons who originally developed the 9B regulations. Their statements contradict NPS's re-interpretation of the 9B regulations. See Attachment 1. From 1979 to 2002 the 9B regulations were implemented differently than NPS implements them now. See Attachment 2. The jurisdiction that NPS does have on activities outside the BTNP is in protecting park resources. If park resources are threatened, adequate protection cannot be achieved, and the values and resources will suffer impairment then NPS can condemn those minerals rights so they will not cause the degradation of park resources. A full narrative and description of the environmental impacts of an alternative to acquire all or a portion of the mineral interests which are under BTNP must be prepared and provided in the DOGMP/DEIS.</p> </div> <p data-bbox="113 818 153 842">71.</p> <div data-bbox="197 818 911 1208"> <p data-bbox="226 821 882 1040">On page 2-62, NPS says that it implements its responsibilities by "considering acquisition of the nonfederal oil and gas interest." If NPS has done this then it should have documentation that shows the analyses it conducted during this consideration for each well it has approved. These analyses should include cost estimates for acquiring private mineral rights under BTNP as a whole and in certain units or parts of units. NPS has never presented any such information in its EAs for any oil/gas activity and does not do so for the DOGMP/DEIS. NPS has made no serious analysis about acquiring private oil/gas mineral rights and continues to stonewall the Sierra Club and the public by not providing the appropriate information in the DOGMP/DEIS for public review and comment. Decision-makers also need to know this information.</p> <p data-bbox="226 1065 882 1205">Shame on NPS for abdicating its responsibility for protecting public resources and taking the "hard look" that NEPA requires. NPS refuses to mention its responsibilities under the Commerce Clause of the Constitution and other laws to acquire private mineral rights. No one has stated that NPS should acquire private mineral rights without "due process of law or just compensation". NPS is using the Fifth Amendment of the U.S. Constitution to avoid its responsibility to protect the public's resources in BTNP.</p> </div> <p data-bbox="113 1221 153 1245">72.</p> <div data-bbox="197 1221 911 1269"> <p data-bbox="226 1224 882 1266">On page 2-64, the Sierra Club vigorously disagrees with the NPS that "Activities located outside park boundaries but connected to operations occurring within a</p> </div>	<p data-bbox="1060 686 2007 906">71. The NPS considers acquisition of the nonfederal oil and gas interest in project-specific analyses it undertakes under NEPA. Thus far, the acquisition of the nonfederal oil and gas interest has been considered but dismissed from further consideration. As stated in the EAs, "In the event that a proposed operation cannot be sufficiently modified to prevent the impairment of park resources and values, the NPS may seek to extinguish the associated mineral right through acquisition, subject to the appropriation of funds from Congress." In all cases thus far, no nonfederal oil and gas proposal submitted has presented a significant threat of damage to park resources. Therefore, in each case, the alternative to acquire the nonfederal oil and gas interest was considered but dismissed from further consideration.</p> <p data-bbox="1060 930 2007 1174">Likewise, in the Draft Plan/EIS, on page 2-17, NPS considered alternatives to acquire a portion or all of the nonfederal mineral rights in the Preserve. These alternatives were considered but for the reasons provided were dismissed from detailed analysis. To pursue evaluating these unreasonable alternatives would be inconsistent with CEQ and DO-12. These alternatives were analyzed to a limited extent before being dismissed from further evaluation. CEQ requires that NEPA documents be "concise, clear, and to the point." They must "emphasize real environmental issues and alternatives" and be useful to the decision-maker and the public (1500.2). "Most important, NEPA documents must concentrate on the issues that are truly significant (i.e., pivotal) to the action in question, rather than amassing needless detail" (1500.1(b)). Therefore, the NPS did not include a cost analysis for acquiring some or all of the mineral interests.</p> <p data-bbox="1060 1209 1283 1234">72. See Response 46.</p>

COMMENTS	RESPONSES
<p>72. Cont.</p> <div data-bbox="195 318 911 1019" style="border: 1px solid black; padding: 5px;"> <p>park" are beyond the jurisdiction of the NPS. NPS has an April 16, 1998 solicitor's opinion (final) that contradicts this statement. See Attachment 3.</p> <p>On pages 2-66 and 2-67, the Sierra Club disagrees with the NPS over its so-called exemption process as well as its opinion that NEPA does not apply. These positions by NPS are why the Sierra Club has filed suit over its implementation of the 9B regulations. NPS is silent in this DOGMP/DEIS about the lawsuit and the fact that its re-interpretation of the 9B regulations is so controversial that this had led to a lawsuit in federal court.</p> <p>NPS has also stated in EAs prepared for oil/gas activities in BTNP that it is not granting an "approval" and therefore it does not have to conduct an EA. This is an incorrect statement. The granting of a "waiver" to allowing drilling through the BTNP is an approval because it ensures that an operator does not have to develop a plan of operations (POO). Drilling by an operator does trigger the significance test in NEPA so this is a "major federal action significantly affecting the quality of the human environment." Therefore an EIS should be prepared. Drilling inside BTNP further strengthens that these are "major federal action(s)" because a POO is necessary and an EIS is required. Yet NPS prepares EAs exclusively and ignores the requirement for an EIS. The Sierra Club objects to this unwarranted action.</p> <p>If NPS argues that the drilling of a well is not significant then the Sierra Club's response is that the drilling of a well inside BTNP or through the BTNP, via slant drilling, in addition to the proposals to drill wells within other units of BTNP, does constitute the crossing of the significance threshold.</p> <p>In <i>Anderson v. Evans</i>, 314 F. 3d 1006, 1019 (9th Cir. 2002), the court ruled that an EA would be set aside when the record showed that the "whole population in the local Washington area may be significantly affected" and because "such local effects are a basis for a finding that there will be a significant impact". It is obvious that on an individual well basis that this court ruling may in fact apply to the failure of the NPS to conduct an EIS for individual or multiple wells that are drilling inside or just outside the boundaries of BTNP.</p> </div> <p>73.</p> <div data-bbox="195 1027 911 1144" style="border: 1px solid black; padding: 5px;"> <p>This DOGMP/DEIS does not assess the total direct, indirect, connected, secondary, and cumulative impacts of multiple wells drilled inside and just outside the BTNP. The Sierra Club requests NPS withdraw the DOGMP/DEIS, modify it to discuss these issues, and re-issue it for public review and comment. Decision-makers also need to know this information.</p> </div> <p>74.</p> <div data-bbox="195 1153 911 1245" style="border: 1px solid black; padding: 5px;"> <p>On page 2-67, Collection of Resource Information by Prospective Operators, the NPS use to require more information than it currently does for a "waiver". Because Davis Brothers complained NPS emasculated its data requirements and has bent over backwards to be on the operator's side. This</p> </div>	<p>73. Chapter 4, Environmental Consequences, on pages 4-1 through 4-154 of the Draft Plan/EIS, is devoted to assessing the environmental impacts by resource topic or concern, under each alternative.</p> <p>74. The scope of the NPS's jurisdiction under its regulations at 36 CFR Part 9B, including its authority under section 9.32(e), is limited to operations that occur inside the boundary of the park. On September 1, 2005, the District Court for the District of Columbia issued an order in <u>Sierra Club v. Mainella</u>, (Civ. No. 04-2012, 2005 U.S. Dist. LEXIS 18911), affirming this interpretation and validating NPS's application of section 9.32(e). The court said that "the plain language of the 9B Regulations limits NPS's exemption process to the consideration of impacts from activities within a unit." Nonetheless, through its compliance with the National Environmental Policy Act, the NPS discloses potential impacts to park resources associated with operations occurring outside park boundaries and outside the Service's regulatory jurisdiction. The NPS also works with operators to encourage them to adopt mitigation measures on their operations located outside park boundaries in order to protect park resources.</p>

COMMENTS	RESPONSES

COMMENTS	RESPONSES
<p>74. Cont.</p> <p>blatant abdication of the NPS's responsibility is one of the reasons why the Sierra Club has sued NPS. But NPS stays silent about the lawsuit. See Attachment 4.</p> <p>75.</p> <p>On page 2-67, Access to Surface Location Outside Park Boundaries and Monitoring, NPS has weakened its ability to monitor slant drilling outside BTNP to ensure that BTNP resources are not being harmed and the waiver is being implemented as agreed on by the operator. NPS undermined its own employees when violations of "waivers" were found. NPS weakens its own ability to enforce mitigation measures by calling them voluntary and allowing operators like Davis Brothers to challenge NPS that it has no authority to enforce mitigation measures outside BTNP (even if Davis has voluntarily agreed to implement them and signed off on this agreement). The Sierra Club vigorously disagrees with NPS when it states, "When the NPS has made an upfront determination that a directional drilling operation is exempt without conditions from the regulations because of the lack of impacts, there is no 9B regulatory reason to access the surface location outside the park." This blatant abdication of the NPS's responsibility is one of the reasons why the Sierra Club has sued NPS. But NPS stays silent about the lawsuit. See Attachment 5.</p> <p>76.</p> <p>On page 2-69, Table 2.19, Mitigation Measures column, NPS formally states that it will not necessarily participate in "other agencies' permitting processes to identify potential impacts on park resources and values and recommend mitigation". This occurs when NPS states that it "Should" participate rather than "Will" participate. This blatant abdication of the NPS's responsibility is one of the reasons why the Sierra Club has sued NPS. But NPS stays silent about the lawsuit. NPS, by not committing to participating in other agencies' permitting process and refusing to incorporate other agency's environmental protection rules in its waivers and permits, violates its responsibility under the Organic Act and other laws to protect the public's resources in BTNP in perpetuity. See Attachment 6.</p> <p>77.</p> <p>2) On page S-2, Purpose and Need for This Plan, NPS states that special use permits are issued before an activity can be conducted in existing oil/gas right-of-ways (ROW). The Sierra Club requests that it be notified when these special use permits are requested; that the Sierra Club be allowed to comment on each special use permit; and the public be granted a public review and comment period for each proposed special use permit.</p> <p>78.</p> <p>3) On page S-2, Planning Direction, the date given for the DOGMP/DEIS scoping open house is December 3, 1988. The date should be December 3, 1998.</p> <p>79.</p> <p>The Sierra Club is concerned that this DOGMP/DEIS took 6 years to complete. The DOGMP/DEIS appears to have been updated little since work on this document began. The information is dated and the age of the information affects the analysis conducted. Two years went by without any work on the plan. Because of the length of time that the DOGMP/DEIS was in preparation the NPS should have reopened the scoping process to ensure that the newest information</p>	<p>75. See Response 74. Also note that the NPS's authority to require and enforce mitigation measures is tied to the scope of its jurisdiction under the regulations.</p> <p>76. Section 1.5 of NPS Management Policies states, "[R]ecognizing that parks are integral parts of larger regional environments, the Service will work cooperatively with others to anticipate, avoid, and resolve potential conflicts; protect park resources and values; provide for visitor enjoyment; and address mutual interests in the quality of life of community residents, including matters such as compatible economic development and resource and environmental protection." As appropriate, the NPS participates in other agencies' permitting process to identify potential impacts to park resources and values.</p> <p>The following text was inserted in the Final Plan/EIS on page 2-71, Table 2.19, last column, 3rd bullet: "The NPS will work cooperatively with other agencies during their permitting processes to identify potential impacts on park resources and values and recommend mitigation measures/conditions of approval."</p> <p>77. Comment noted.</p> <p>78. The date of the public scoping open house was corrected in the Final Plan/EIS.</p> <p>79. Members of the interdisciplinary team continued to work on development of the Draft Plan/EIS during the 6-year period. Factual information such as the number of wells drilled, the status of these operations, and other information have been updated in the Final Plan/EIS. The data provided in the Plan/EIS were determined to be current and valid.</p> <p>Also see Responses 74 and 75.</p>

COMMENTS	RESPONSES
<p>79. Cont.</p> <div data-bbox="226 323 926 440"> <p>was included in the document. If this had been done then the Sierra Club would have raised as an issue of concern the re-interpretation of the 9B regulations and the ability of the NPS to monitor slant wells that are adjacent to, but off public lands. The Sierra Club protests NPS's decision not to reopen scoping for the DOGMP/DEIS.</p> </div> <p>80.</p> <div data-bbox="226 448 926 565"> <p>4) On pages S-4 and S-5, Planning Direction, another change NPS has made since it re-interpreted the 9B regulations is it no longer incorporates other agency mitigation and environmental protection stipulations into the "waiver" of the POO. This incorporation of local, state, and federal mitigation ensures that natural resource protection inside and outside BTNP is maximized. See Attachment 6.</p> </div> <p>81.</p> <div data-bbox="226 573 926 881"> <p>5) On page S-4, 2-1, 2-5, 2-15, 4-1, Reasonably Foreseeable Development Scenario (RFD), the RFD is obsolete and the way the NPS uses it in the DOGMP/DEIS distorts its original purpose. The RFD was conducted in 1999-2000 using 1995 data. It was meant to estimate, from the 2000 date, the amount of oil/gas that might be found in the next 15-20 years. The RFD presented in Appendix E does not indicate how the proposed number of 29 wells used by the DOGMP/DEIS was calculated and or determined. The number of oil/gas fields is calculated in the RFD.</p> <p>Already, the number of oil/gas wells projected to be drilled in or under BTNP is obsolete. At least 20 wells have been approved or drilled since the preparation of the RFD in 2000. NPS should revise the RFD because the 29 well estimate is low and will be exceeded in the next 3 years. The 29 well estimate, using a starting date of 2004, underestimates the number of wells that will be drilled in BTNP because the RFD estimate is from 2000 and not 2004.</p> </div> <p>82.</p> <div data-bbox="226 889 926 1247"> <p>6) On pages S-5 and S-6, Summary of Plan Alternatives, and 2-1, Introduction, and 2-16, 2-17, 2-61-2-64, a reasonable alternative that was not analyzed is the buy-out of all or some of the private mineral rights under BTNP. NPS has refused to analyze this reasonable alternative although the Sierra Club has submitted this alternative in its scoping and EA comments for the past several years. NPS violates CEQ NEPA implementing regulations found in Section 1502.14(a) when this occurs.</p> <p>The NPS is having difficulty obtaining the surface title to lands along Big Sandy and Village Creeks to add to BTNP after Congress appropriated over \$11,000,000 the past three years. This is of great concern and is relevant to the issue of analyzing the buy-out of oil/gas mineral rights in BTNP in this EIS. Blackstone Minerals is resisting the surface right buy-out for these lands because certain surface access and use rights have not been agreed to by the NPS. Apparently the NPS finds it unacceptable in a unit of the National Park System to allow the type of guaranteed for surface access and use rights that Blackstone is requesting. This problem, which endangers the lands to be added to BTNP by</p> </div>	<p>80. See Responses 74 and 75.</p> <p>81. Also see Response 29. The comment incorrectly states that the purpose of the RFD scenario is to "...estimate, from the 2000 date, the amount of oil and gas that might be found in the next 15 – 20 years." The USGS assessment was prepared for this purpose, not the RFD scenario prepared by the NPS. The purpose of the RFD scenario is to provide a reasonable basis for analyzing the potential effects of oil and gas related operations within and outside the Preserve for the alternatives presented in this Plan/EIS. The number of wells and the acres of disturbance projected in the RFD scenario do not represent a benchmark or decision point for acceptable level of activity that could occur to develop the oil and gas underlying the Preserve. Rather, they are meant to provide the interdisciplinary team, public, and NPS decision-makers with an understanding of the types and extent of oil and gas exploration and production operations expected under this Plan/EIS. The NPS will track the number of wells and the acres of disturbance for nonfederal oil and gas operations in the Preserve. If the number of wells or the acres of disturbance presented in the RFD scenario, or the impacts (context, intensity, and duration) from future oil and gas projects exceed those anticipated in this Plan/EIS, then the NPS will re-examine whether to supplement the Plan/EIS as required by the NEPA and NPS Director's Order and Handbook – Conservation Planning, Environmental Impact Analysis and Decision-Making.</p> <p>The methodology used by the NPS to prepare the RFD scenario is based on previous 3-D seismic surveys, well drilling in and near the Preserve, and Texas Railroad Commission regulatory requirements. As shown in the footnote to Table 2.1 on page 2-7 of the Draft Plan/EIS, the NPS assumed that 3-D seismic surveys could be conducted Preserve-wide. Since it is unlikely that Preserve-wide proprietary 3-D seismic surveys would be conducted in areas that already have seismic coverage, this results in a worst case scenario (large) acreage estimate in the RFD scenario. It is more likely that smaller, site-specific 3-D surveys would be conducted to delineate drilling targets. The number of shotholes, line spacing for source and receiver lines, and extent of selective vegetative trimming that used in the calculation of surface disturbances are based on the Seismic Assistants Ltd. 3-D seismic survey conducted during 2004 in the Preserve.</p> <p>Wellpad and access road dimensions used in the RFD scenario were derived by averaging surface disturbances for existing operations within and outside of the Preserve. Average field sizes and cumulative production per well were determined by USGS during their review of all wells drilled in the Western Gulf Oil and Gas Province. Exploratory and production drilling success rates were determined by looking at drilling results for wells in and near the Preserve. All of these components have been updated by contacting companies currently conducting oil and gas operations in the Preserve and have been used to prepare the revised RFD scenario shown in the Final Plan/EIS. Since 1997, no wells have been drilled from surface locations inside of the Preserve. It is anticipated</p>

COMMENTS	RESPONSES
<p data-bbox="86 342 153 396">82. Cont.</p> <div data-bbox="212 326 919 646" style="border: 1px solid black; padding: 5px;"> <p data-bbox="243 337 894 378">the 1993 Big Thicket Addition Act, speaks to the need and reasonableness of analyzing the buy-out of oil/gas mineral rights in this EIS.</p> <p data-bbox="243 399 894 540">It is incredible that America's first National Preserve is not fully protected from all the environmental impacts due to oil/gas activities. NPS is against analyzing the buy-out of private mineral rights to protect public lands the American People have entrusted to it to protect forever. Apparently NPS is more concerned about protecting the "planning goal to permit reasonable access for exploratory drilling, production, and transportation of nonfederal oil and gas resources" than the public's natural resources in BTNP.</p> <p data-bbox="243 561 894 638">NPS has ignored alternatives that provide a mix of protective strategies. For instance, a buy-out of mineral rights for sensitive areas while allowing drilling in less sensitive areas. The NPS is ignoring CEQ NEPA implementing regulations which require the consideration and analysis of "all reasonable alternatives".</p> </div> <p data-bbox="115 659 153 683">83.</p> <div data-bbox="212 659 919 1284" style="border: 1px solid black; padding: 5px;"> <p data-bbox="243 667 894 881">7) On page S-7, Table S1, Alternative B, page S-9, Table S2, 2-13, 2-25, 2-55, for "Total Area with Operating Stipulations", NPS uses a total figure of "up to 75,293 acres". The public deserves to know and to be clearly and easily shown how much protection each alternative provides in total acres. Decision-makers also need to know this information. This table is deficient in this respect. The same deficiency is found for the column under "Drilling and Production Operations – No Surface Use", where instead of stating how many acres each unit and special protected area will consist of NPS gives the figure "less than 46,273 acres". This is not acceptable under Section 1502.14 and 1502.16 of CEQ's NEPA implementing regulations. Both of these columns also are footnoted with (4), but footnote 4 is not found at the bottom of S-7.</p> <p data-bbox="243 902 894 963">NPS must clearly show how many acres are designated as "no surface use" areas for each BTNP unit; for each ecosystem in BTNP; and for each special management area.</p> <p data-bbox="243 984 894 1060">On page 2-32, NPS fails to tell the public, for Alternative B, Beaumont Unit, Total Area with Operating Stipulations. NPS does not give a definitive acreage and simply states "less than 5,547 acres". Decision-makers also need to know this information.</p> <p data-bbox="243 1081 894 1157">On page 2-32, NPS fails to tell the public, for Alternative B, Beaumont Unit, Total Acres with No Surface Use. NPS does not give a definitive acreage and simply states "less than 3,258 acres". Decision-makers also need to know this information.</p> <p data-bbox="243 1179 894 1255">On page 2-34, NPS fails to tell the public, for Alternative B, Beech Creek Unit, Total Area with Operating Stipulations. NPS does not give a definitive acreage and simply states "less than 4,753 acres". Decision-makers also need to know this information.</p> </div> <p data-bbox="863 1320 884 1336">27</p>	<p data-bbox="1056 237 2005 326">that most of the wells that will be drilled in the future to develop oil and gas resources underlying the Preserve will be directionally drilled from outside of the Preserve. Therefore, the acreage estimate shown in the RFD scenario in the Plan/EIS represents an upper estimate of activities and surface disturbances, most of which are likely to occur on lands outside of the Preserve.</p> <p data-bbox="1056 358 2005 602">82. Two alternatives to acquire a portion of or all of the nonfederal mineral rights in the Preserve were evaluated to a limited extent on page 2-17. As described in the text, the NPS currently only has the authority to acquire the nonfederal mineral rights on a case-by-case basis if it determines that an oil and gas operation poses a significant threat to park resources and values. This was one of the reasons the alternatives to acquire a portion or all of the nonfederal mineral rights in the Preserve was dismissed from further consideration. See Response 71. According to § 4.5E(6) of DO-12: "Reasons to eliminate alternatives include:...(c) duplication of other, less environmentally damaging or less expensive alternatives." Targeted buyouts, when needed, would be substantially less expensive than extinguishing mineral rights, therefore the latter is eliminated from detailed consideration.</p> <p data-bbox="1056 634 2005 902">83. Please refer to Table 2.4, Summary of Alternatives. On page 2-21 of the Draft Plan/EIS, under the Riparian Corridors SMA for Alternative B, the "No Surface Use" operating stipulation would be applied to drilling and production operations, with an exception that states, "except drilling and production operations could be permitted adjacent to existing roadways, within previously disturbed areas, subject to Current and Legal Policy Requirements. No new roads would be permitted. Associated flowlines and gathering lines could be located within previously disturbed areas." Therefore, Tables S-1, and 2-5 through 2-16, under Alternative B, have the "<" before the acreage for "Total Area with Operating Stipulations" and "Total Area for Drilling and Production Operations with No Surface Use," to remind the reader that the acreage could be less than the total number if exceptions for drilling and production operations are permitted within the SMA. Each of the acreage totals are footnoted to explain why the "<" appears before the acreage total.</p> <p data-bbox="1056 935 1692 951">The numbering of the footnotes was corrected in the Final Plan/EIS.</p>

COMMENTS	RESPONSES
<p>83. Cont.</p> <div data-bbox="203 332 919 1265" style="border: 1px solid black; padding: 10px;"> <p>On page 2-34, NPS fails to tell the public, for Alternative B, Beech Creek Unit, Total Acres with No Surface Use. NPS does not give a definitive acreage and simply states "less than 3561 acres". Decision-makers also need to know this information.</p> <p>On page 2-36, NPS fails to tell the public, for Alternative B, Big Sandy Creek Unit, Total Area with Operating Stipulations. NPS does not give a definitive acreage and simply states "less than 12,608 acres". Decision-makers also need to know this information.</p> <p>On page 2-36, NPS fails to tell the public, for Alternative B, Big Sandy Creek Unit, Total Acres with No Surface Use. NPS does not give a definitive acreage and simply states "less than 8,552 acres". Decision-makers also need to know this information.</p> <p>On page 2-38, NPS fails to tell the public, for Alternative B, Hickory Creek Savannah Unit, Total Area with Operating Stipulations. NPS does not give a definitive acreage and simply states "less than 395 acres". Decision-makers also need to know this information.</p> <p>On page 2-38, NPS fails to tell the public, for Alternative B, Hickory Creek Savannah Unit, Total Acres with No Surface Use. NPS does not give a definitive acreage and simply states "less than 395 acres". Decision-makers also need to know this information.</p> <p>On page 2-40, NPS fails to tell the public, for Alternative B, Lance Rosier Unit, Total Area with Operating Stipulations. NPS does not give a definitive acreage and simply states "less than 23,515 acres". Decision-makers also need to know this information.</p> <p>On page 2-40, NPS fails to tell the public, for Alternative B, Lance Rosier Unit, Total Acres with No Surface Use. NPS does not give a definitive acreage and simply states "less than 4,212 acres". Decision-makers also need to know this information.</p> <p>On page 2-42, NPS fails to tell the public, for Alternative B, Lower Neches River Corridor Unit, Total Area with Operating Stipulations. NPS does not give a definitive acreage and simply states "less than 2,544 acres". Decision-makers also need to know this information.</p> <p>On page 2-42, NPS fails to tell the public, for Alternative B, Lower Neches River Corridor Unit, Total Acres with No Surface Use. NPS does not give a definitive acreage and simply states "less than 2,544 acres". Decision-makers also need to know this information.</p> </div> <p style="text-align: center;">28</p>	

COMMENTS	RESPONSES
<p data-bbox="86 318 153 375">83. Cont.</p> <div data-bbox="212 310 928 1242" style="border: 1px solid black; padding: 10px;"> <p data-bbox="252 337 903 418">On page 2-44, NPS fails to tell the public, for Alternative B, Menard Creek Corridor Unit, Total Area with Operating Stipulations. NPS does not give a definitive acreage and simply states "less than 2,025 acres". Decision-makers also need to know this information.</p> <p data-bbox="252 440 903 521">On page 2-44, NPS fails to tell the public, for Alternative B, Lower Neches River Corridor Unit, Total Acres with No Surface Use. NPS does not give a definitive acreage and simply states "less than 2,025 acres". Decision-makers also need to know this information.</p> <p data-bbox="252 542 903 623">On page 2-46, NPS fails to tell the public, for Alternative B, Neches Bottom/Jack Gore Baygall Unit, Total Area with Operating Stipulations. NPS does not give a definitive acreage and simply states "less than 11,981 acres". Decision-makers also need to know this information.</p> <p data-bbox="252 644 903 725">On page 2-46, NPS fails to tell the public, for Alternative B, the Neches Bottom/Jack Gore Baygall Unit, Total Acres with No Surface Use. NPS does not give a definitive acreage and simply states "less than 5,803 acres". Decision-makers also need to know this information.</p> <p data-bbox="252 747 903 828">On page 2-48, NPS fails to tell the public, for Alternative B, Little Pine Island Bayou Corridor Unit, Total Area with Operating Stipulations. NPS does not give a definitive acreage and simply states "less than 1,528 acres". Decision-makers also need to know this information.</p> <p data-bbox="252 849 903 930">On page 2-48, NPS fails to tell the public, for Alternative B, Little Pine Island Bayou Corridor Unit, Total Acres with No Surface Use. NPS does not give a definitive acreage and simply states "less than 1,528 acres". Decision-makers also need to know this information.</p> <p data-bbox="252 951 903 1032">On page 2-50, NPS fails to tell the public, for Alternative B, Turkey Creek Unit, Total Area with Operating Stipulations. NPS does not give a definitive acreage and simply states "less than 6,439 acres". Decision-makers also need to know this information.</p> <p data-bbox="252 1053 903 1135">On page 2-50, NPS fails to tell the public, for Alternative B, Turkey Creek Unit, Total Acres with No Surface Use. NPS does not give a definitive acreage and simply states "less than 6,439 acres". Decision-makers also need to know this information.</p> <p data-bbox="252 1156 903 1237">On page 2-52, NPS fails to tell the public, for Alternative B, Upper Neches River Corridor Unit, Total Area with Operating Stipulations. NPS does not give a definitive acreage and simply states "less than 3,958 acres". Decision-makers also need to know this information.</p> </div> <p data-bbox="871 1320 892 1336">29</p>	

COMMENTS	RESPONSES
<p>83. Cont.</p> <div data-bbox="205 324 932 420" style="border: 1px solid black; padding: 5px;"> <p>On page 2-52, NPS fails to tell the public, for Alternative B, Upper Neches River Corridor Unit, Total Acres with No Surface Use. NPS does not give a definitive acreage and simply states "less than 3,958 acres". Decision-makers also need to know this information.</p> </div> <p style="text-align: center;">Chapter 1 Introduction</p> <p>84.</p> <div data-bbox="205 470 919 662" style="border: 1px solid black; padding: 5px;"> <p>1) On page 1-1, Purpose and Need for This Plan, NPS states that further NEPA analysis will be conducted for specific POO and special use permit applications. NPS does not mention that "waivers" from the POO must go through NEPA. NPS does not mention that no EISs have been conducted on any site specific oil/gas project that the Sierra Club has reviewed since 1984 (20 years). The reality is that the best and most comprehensive environmental analysis, as found in an EIS, is not conducted on site specific oil/gas projects in BTNP. Surely for some site specific oil/gas projects an EIS is required and should receive that most intense analysis.</p> </div> <p>85.</p> <div data-bbox="205 667 919 763" style="border: 1px solid black; padding: 5px;"> <p>2) On page 1-1, Purpose and Need for This Plan, paragraph 1, NPS states that the DOGMP/DEIS will be implemented over 15-20 years. The last paragraph of page 1-1 says the plan will provide direction for 10-15 years. Which is correct?</p> </div> <p>86.</p> <div data-bbox="205 768 919 964" style="border: 1px solid black; padding: 5px;"> <p>3) On page 1-3, NPS Organic Act and General Authorities Act, the Sierra Club disagrees that "An impact would be less likely to constitute an impairment to the extent that it is an unavoidable result, which cannot be reasonably further mitigated, of an action necessary to preserve or restore the integrity of park resources or values." An action causes an impairment or it does not. The fact that it is unavoidable should have nothing to do the decision of deciding whether impairment has occurred. If NPS allows impairment for any purpose it indicates that NPS is unable to protect public lands in perpetuity for the enjoyment of the public.</p> </div> <p>87.</p> <div data-bbox="205 969 919 1086" style="border: 1px solid black; padding: 5px;"> <p>4) On page 1-3, NPS Organic Act and General Authorities Act, fourth paragraph, the Sierra Club is concerned that NPS does not list "solitude" as a park resource and value that should be protected using the impairment standard. The Sierra Club requests that solitude be added to the basic value and resource list for this EIS and which is found on NPS lands and in BTNP.</p> </div> <p>88.</p> <div data-bbox="205 1091 919 1276" style="border: 1px solid black; padding: 5px;"> <p>5) On page 1-5, Natural Resource Management, NPS has failed "To initiate joint planning and natural resources management programs with neighboring landowners to promote continued compatible land use" with regard to oil/gas activities." As a result adjacent landowners have suffered additional environmental degradation due to slant wells located on their lands and which bore under BTNP. Temple-Inland has not been happy with the way Davis Brothers has operated on its lands. NPS must discuss why it has not aggressively sought a joint plan for oil/gas activities with adjacent landowners</p> </div> <p style="text-align: center;">30</p>	<p>84. Comment noted.</p> <p>85. The plan is intended to provide direction for long-term management of existing and anticipated oil and gas operations. "Long-term" is defined on page 4-3 of the Draft Plan/EIS for describing impacts as extending up to 20 years or longer. The Final Plan/EIS was corrected to consistently state that the plan covers the next 15-20 years, and possibly longer, if there are no major changes in technology, and impacts do not significantly change from those described.</p> <p>86. The text quoted comes from §1.4.5 of NPS <i>Management Policies</i>. Please note the analysis in the Draft Plan/EIS determined that there would be no potential for impairment to Preserve resources or values from implementation of any of the three alternatives. Impairment is determined based on the NPS Organic Act, and the Preserve's enabling legislation, which specifically addresses exploration and development of non-federal oil and gas.</p> <p>87. "Solitude" is included in the topic "Visitor Use and Experience." "Solitude" is described in the issue statement on page 1-21 under "Visitor Use and Experience." The description of "Wild Character – Solitude" on pages 3-71 and 3-72 of the Draft Plan/EIS describes how wild character-solitude contributes to some visitor experiences. This discussion is under the overall heading "Visitor Use and Experience" on pages 3-61 through 3-72. This section of the Draft Plan/EIS describes the types of visitor uses, how natural quiet is a component of visitor experience, and how wild character-solitude contributes to some visitor experiences. Environmental consequences on visitor use and experience, is found in Chapter 4 under the same overall heading "Visitor Use and Experience."</p> <p>88. The purpose of summarizing the Preserve's 1980 General Management Plan is to show that the Oil and Gas Management Plan/EIS would be consistent with the GMP direction.</p>

COMMENTS	RESPONSES
<p>88. Cont. and what will be done in the future to ensure it does a better job. See Attachment 7.</p> <p>89. 6) On pages 1-5 through 1-9, NPS does not discuss that it changed the 9B regulations by reinterpreting them via two memos, one which was issued on May 22, 2003 and one which was issued on November 14, 2003. The very fact that these memos exist and were written after Davis Brothers complained to the Department of the Interior (DOI) about having to conduct and submit important environmental analyses is disconcerting.</p> <p>The Sierra Club is also concerned that NPS does not even mention these documents in this discussion of the 9B regulations. Is NPS trying to hide something? NPS fails to mention and discuss the solicitor's opinion (not a draft, but a final opinion) of April 16, 1998, which indicates that NPS has some regulatory authority outside the boundaries of the National Park System. The Sierra Club requests that the NPS discuss these two memos and the events that led to their creation, including the draft solicitor's opinion that NPS used to justify reinterpreting the 9B regulations. See Attachments 3 and 4.</p> <p>90. 7) On page 1-9, Regulation of Transport Oil and Gas Pipelines and Activities in Associated Rights-of-Way, NPS should provide in an appendix the oil/gas pipeline ROW documents that exist for BTNP. NPS should explain in this DOGMP/DEIS what the ROW documents say for each pipeline so that the public can review, comment on, and understand them. Decision-makers also need to know this information.</p> <p>91. 8) On page 1-13, Establishing a Planning Team, did NPS ask any of the federal or state agencies to be a cooperating agency?</p> <p>92. 9) On page 1-13, Establishing a Planning Team, NPS does not state that on a case-by-case basis, site specific oil/gas projects, are supposed to be assessed to determine whether an EA/EIS should be prepared. Instead NPS states that a POO and EA are prepared. This demonstrates a bias against assessing whether an EIS is required versus an EA for site specific oil/gas projects.</p> <p>93. 10) On page 1-18, Resources and Concerns to be Addressed in the Plan, NPS should include "solitude" in this list of resources and concerns.</p> <p>94. 11) On page 1-19, Table 1.3, Nonfederal Oil and Gas Development, please note that non-federal oil and gas operations contribute "Minimally" to domestic energy supply.</p> <p>95. 12) On page 1-19, Table 1.3, Geologic Resources, NPS does not mention that the destruction of organic or the living portion of the soil is one impact that occurs due to oil/gas activities in BTNP.</p>	<p>89. See Response 46.</p> <p>90. The NPS sees no point in attaching to the Final Plan/EIS copies of all documents creating oil or gas pipeline rights-of-way (all of which are publicly available) or in trying to "explain" what each document "says." What a particular right-of-way document "says" is a matter of legal interpretation and must be determined on a case-by-case basis.</p> <p>91. No, as stated on page 1-13 of the Draft Plan/EIS, in the 2nd and 3rd paragraphs under the heading "Establishing a Planning Team."</p> <p>92. The text in the first bullet under the heading "Establishing a Planning Team" incorrectly assumes that the NPS could satisfy NEPA requirements for future oil and gas proposals by development of environmental assessments. While oil and gas proposals in the past have never required the preparation of an environmental impact statement (EIS), the possibility exists that an EIS may be required in the future. The text was modified in the Final Plan/EIS to read: "The NPS consults with the following entities on a project-by-project basis if a proposal could have effects on floodplains or wetlands."</p> <p>93. See Response 87.</p> <p>94. The third issue statement under the heading "Nonfederal Oil and Gas Development" on page 1-19 was deleted in the Final Plan/EIS. The NPS evaluated the effect the action alternatives would have on the local and regional economies to a limited degree on pages 1-22 and 1-23, before dismissing the topic from further analysis because effects would not be measurable (meaning there would be minor or less effects).</p> <p>95. The organic or living portion of soil is addressed in the first issue statement as "other soil characteristics," and in the third issue statement as "could alter the soil's chemical and physical properties."</p>

COMMENTS	RESPONSES
<p>96. 13) On page 1-19, Table 1.3, Water Resources, NPS does not mention about the need to protect groundwater recharge areas, shallow water aquifers, connected biological communities like seeps and bogs, and the recharge of the alluvium stream aquifers from the impacts of oil/gas activities.</p> <p>97. 14) On page 1-21, Table 1.3, Visitor Use and Experience, NPS must include solitude, quiet, and the protection of natural sounds as important values for visitor use.</p> <p>98. 15) On page 1-22, Local and Regional Economies, NPS must define what “technological feasible precautions” means. This phrase is not in the Glossary. The public must be able to review, comment on, and understand what NPS is referring to. Decision-makers also need to know this information. The qualitative description of phrases used to describe environmental impacts or the protectiveness of an alternative does not provide the public with the degree of comparison required by the CEQ as outlined above in 3. The Sierra Club requests that NPS clarify and detail clearly the comparative differences between each alternative and define clearly what the words or phrases used mean.</p> <p>99. 16) On page 1-22, Local and Regional Economies, NPS uses an average of 2 wells drilled/year over the past 4 years. This information is out-of-date. According to the EA Farnco Oil, Inc. Roberts/Duke #1 Flowline, December 2004, on page 15, “From 1998 through 2004, there were no wells drilled within the Preserve. However, 19 directional wells were drilled from surface locations outside the Preserve to reach bottomholes inside the Preserve.” NPS does not say that it has approved or is in the act of approving 19 wells in the past two and one-half years (2002-2004). NPS must give the public the full and correct story and not fail to disclose all the facts.</p> <p>100. 17) On page 1-23, Park Operations for Fire and Facility Management, NPS calls the visitor center an “Information Station”. Why?</p> <p>101. 18) On page 1-24, Possible Conflicts Between the proposed Action and land Use Plans, Policies, or Controls, NPS does not mention how it changed and reinterpreted the 9B regulations. This was done via a draft solicitor’s opinion and two memos without public input. NPS does not say anything about the lawsuit that the Sierra Club has filed over reinterpretation of the 9B regulations. NPS must give the public the full and correct story and not fail to disclose all the facts.</p> <p style="text-align: center;">Chapter 2 Part 1 –Plan Alternatives</p> <p>102. 1) On pages 2-2, Alternative A, 2-18, 2-19, NPS states that Alternative A does not consist of a “formalized Preserve-wide oil and gas management plan and specific resource protection goals (called performance standards) and operating</p>	<p>96. The issue statements define problems that could affect water quality and quantity, both surface and subsurface.</p> <p>97. “Solitude” and “background sound levels” are described in the 2nd issue statement.</p> <p>98. The following parenthetical citation was inserted at the end of the 2nd paragraph under the heading “Local and Regional Economies, on page 1-22: “(36 CFR § 9.46).” The first sentence of this citation reads: “The operator shall take technologically feasible precautions to prevent accidents and fires, shall notify the Superintendent within 24 hours of all accidents involving serious personal injury or death, or fires on the site, and shall submit a full written report thereon within ninety (90) days.” Also see Response 69.</p> <p>99. The 4th paragraph under the heading “Local and Regional Economies” was revised in the Final Plan/EIS to read: “From 1998 through 2000, no wells were drilled in or outside the Preserve to develop the underlying hydrocarbons. From 2001 through June 2005, 19 directional wells were drilled from surface locations outside the Preserve to reach bottomhole targets beneath the Preserve. During 2004 and up to June 1, 2005, applicants received § 9.32(e) exemption determinations for 15 additional directional wells. The historic drilling activity in the Preserve is further described in the Nonfederal Oil and Gas Operations section in Chapter 3.”</p> <p>100. Big Thicket National Preserve has both a visitor center and an information station. The visitor center is located just east of Highway 69 on FM 420, and the information station is located at the south end of the Turkey Creek Unit as shown on Figure 3.5. The photograph on page 3-66 of the Draft Plan/EIS is of the visitor center and is incorrectly identified as the Big Thicket Information Station. This is corrected in the Final Plan/EIS.</p> <p>101. See Response 46.</p> <p>102. The analysis of impacts under each of the three alternatives is included in Chapter 4, Environmental Consequences.</p>

COMMENTS	RESPONSES
<p>102. Cont.</p> <div data-bbox="201 326 940 565"> <p>stipulations would continue to be applied on a case-by-case basis". NPS indicates that such a program is not as protective as Alternatives B and C because of the lack of a formal oil/gas management plan and the need to look at each oil/gas activity on a case-by-case basis.</p> <p>NPS does not provide any evidence or discussion of the implementation of Alternative A. If Alternative A has caused damage that could have been avoided in BTNP then the NPS should be able to provide examples and discuss the alternative's shortcomings in specific detail. This is particularly important for recent actions (since 1999). The NPS has championed the existing program in relation to the Sierra Club's concerns for the past 6 years.</p> </div> <p>103.</p> <div data-bbox="201 570 940 808"> <p>2) On page 2-2, Alternative B, the Sierra Club is concerned about this alternative's protected areas ambiguity. As we mention elsewhere in this letter, NPS puts "less than" signs in front of acreage that is supposed be protected by Alternative B. Therefore the public has no idea about how many acres actually are protected. NPS states that these protections are "similar to" those of Alternative C. However, Alternative C guarantees protection in certain areas (no "less than" signs). NPS must clearly define and tell the public how much of each unit and how much of each sensitive ecosystem classification is actually protected (no surface use stipulation) so that the public can review, comment on, and understand the alternatives. Decision-makers also need to know this information. NEPA and CEQ regulations that implement NEPA require this.</p> </div> <p>104.</p> <div data-bbox="201 813 940 987"> <p>3) On page 2-2, Alternative C, NPS claims that Alternative C is "similar to" Alternative B. However, Alternative C is not similar to Alternative B because it protects almost all of the Special Management Areas while Alternative B does not. This make Alternative C a much more protective alternative and NPS should make it the "Preferred Alternative". By not making Alternative C the "Preferred Alternative" NPS shows that it is more concerned about allowing private operators their authority and access and less concerned about damaging the world recognized BTNP and its important ecosystems.</p> </div> <p>105.</p> <div data-bbox="201 992 940 1166"> <p>4) On page 23, Applicability of this Plan if the Boundaries of the Preserve are Modified, Park Facilities are Constructed, or Areas Change in Response to Dynamic Environmental Processes, NPS states that "If these or other changes were to occur, the resource and Special Management Area maps would be revised to reflect the current conditions and the provisions in this plan". The Sierra Club requests that the public have an opportunity to review and comment on any changes to the Special Management Area maps and other changes to the DOGMP/DEIS when they are proposed.</p> </div> <p>106.</p> <div data-bbox="201 1170 940 1247"> <p>5) On page 2-4, Exploration Operations, second paragraph, NPS states that receiver lines up to 3-6 feet wide will consist of "selectively trimming vegetation". NPS should say that seedlings, saplings, and small trees up to three inches in</p> </div>	<p>103. See Response 83.</p> <p>The summary description of Alternative B on page 2-2, does not describe the alternative to be "similar to" Alternative C.</p> <p>In the Summary of Impacts tables S-2 and 2.17 (which are identical) the impacts under Alternative B are described either as "same as" when they are exactly the same as Alternative A; or "similar to Alternative A, except..." to distinguish similarity and differences. The same descriptions are used in describing Alternative C in comparison to Alternative B.</p> <p>104. See Response 103. Alternative C is "similar to" Alternative B. Both alternatives have the same Special Management Areas; however, as noted in the comment, under Alternative C more of the Special Management Areas would be closed year-round to oil and gas operations by the application of the No Surface Use stipulation. Also see Response 2.</p> <p>105. Comment noted.</p> <p>106. This section of the DEIS describes "Types of Oil and Gas Operations," and references Appendix D, Types of Oil and Gas Operations. The purpose is to provide an overview of the type of nonfederal oil and gas operations that may occur in and adjacent to the Preserve prior to explaining the reasonably foreseeable development scenario. Impacts on vegetation from oil and gas activities can be found in Chapter 4, pages 4-62 through 4-72.</p>

COMMENTS	RESPONSES
<p>106. Cont.</p> <p>diameter and other vegetation will be killed by cutting. NPS should not soft-pedal the damage that will occur due to these operations.</p> <p>107.</p> <p>6) On page 2-6, Reasonably Foreseeable Development Scenario, the assumption that "the demand, price, and availability of domestically produced hydrocarbons would remain somewhat stable over the next 15 to 20 years" is unlikely. With oil way above \$30-40 per barrel and competition increasing due to China, India, and other nations' increased growth the price of oil can hardly be called "somewhat stable".</p> <p>7) On page 2-7, Reasonably Foreseeable Development Scenario, NPS states that "Production operations would have a life expectancy of 20 to 30 years". Using past information what is the current trend in the life expectancy of production operations? Where is the discussion using existing data that NPS should have examined when making this analysis?</p> <p>108.</p> <p>8) On page 2-11, Description of the Alternatives, the Loblolly Unit and Hickory Creek Savannah Unit should be totally protected from surface use due to their small sizes and because slant drilling can be conducted with little difficulty.</p> <p>109.</p> <p>9) On page 2-11, Description of the Alternatives, NPS states that "it is possible that the site-specific vegetation may differ (or may be absent) from what is depicted on the vegetation maps". How will NPS make-up for any errors in the vegetation maps?</p> <p>110.</p> <p>10) On page 2-12, Alternative A, No-Action/Current Management, the term "old growth trees" is used but is not defined in the Glossary. What is the definition of "old growth trees"? Where are these trees in the units of BTNP and in the Special Management Areas? The public must be able to review, comment on, and understand the alternatives. Decision-makers also need to know this information</p> <p>111.</p> <p>11) On pages 2-18 and 2-19, Table 2.3, NPS demonstrates a bias for Alternative B, its "The Preferred Alternative" and against Alternative C, "The Environmentally Preferred Alternative". NPS does this in the Alternative C column by saying that, with regard to meeting a certain objective, that it is the "Same as Alternative B" or by saying that Alternative C "partially" meets the objective. NPS says that Alternative C is "Same as Alternative B" and then goes on to show, for the third planning objective, that Alternative C is much better than Alternative B.</p> <p>Why is NPS playing these semantic word games? The only answer is that it wants to confuse the public by not stating that Alternative C is better than Alternative B. NPS knows that by having more Special Management Areas in Alternative C that this alternative better meets planning objective 1, identifying resources and values that may be impacted by oil/gas operations, than</p>	<p>107. Based on current worldwide fluctuations in the price of oil and gas, the assumption that prices would remain somewhat stable over the next 15-20 years is no longer valid. Text in the 4th bullet on page 2-6 of the Draft Plan/EIS was changed to read: "The demand, price, and availability of domestically produced hydrocarbons would support the oil and gas development presented in the RFD scenario."</p> <p>108. The NPS will consider proposals to conduct geophysical exploration and drilling from surface locations in or outside these units on a project-by-project basis to determine appropriate mitigation measures.</p> <p>109. Data collection will be required on a project-by-project basis so that a site-specific analysis can be performed.</p> <p>110. See Responses 69 and 109. Also refer to the bottom of page 3-43 that explains that most of the old growth forest in the region has been removed over the past 100 years, but that it is likely that individual trees escaped harvest. Although the Preserve does not currently have a database of locations for old-growth trees, the programmatic oil and gas management plan establishes an objective to protect old-growth trees when they are identified through project-specific surveys.</p> <p>111. See Responses 103 and 104. The description of the alternatives using "similar to" or same as" is not intended to favor one alternative over another. The word "may" is used to describe how the planning objective to provide holders of oil and gas rights reasonable access for exploration and development is met under each alternative. The use of the word "may" recognizes that Protected Areas under Alternative A, or Special Management Areas (and Protected Areas) under Alternatives B and C restrict surface use in these areas of the Preserve. A determination whether the No Surface Use operating stipulation is applied, or whether an exemption will be granted from the 36 CFR 9B regulations or the plan (as per the exemption process described on page 2-3), can only be made on a project-by-project basis by applying a site-specific analysis. The plan recognizes in Chapter 4, Environmental Consequences, in the Nonfederal Oil and Gas Development impact analysis that all operations would be impacted by the alternatives to varying degrees.</p>

COMMENTS	RESPONSES
<p>111. Cont.</p> <div data-bbox="216 326 930 548"> <p>Alternative B. NPS knows that by having more Special Management Areas Alternative C better meets planning objective 3, establish performance standards and impact mitigation measures, than Alternative B.</p> <p>NPS provides no data that documents that Alternative C will limit an operator's ability to conduct operations in the Preserve. In fact NPS uses the word "may" which means that this could happen or this could not happen. What NPS does not do is provide an estimate of what percentage of drilling rights "may" be impacted or "will" be impacted. NPS is not conducting the analyses that NEPA requires.</p> </div> <p>112.</p> <div data-bbox="216 557 930 667"> <p>12) On page 2-21, Table 2.4, Floodplains, the Alternative B column states that this alternative has exceptions. The exceptions are not explained and what additional environmental impacts will occur. NPS should state clearly that Alternative C is a more protective alternative than Alternative B because all Riparian Corridors are in Special Management Areas with no surface use.</p> </div> <p>113.</p> <div data-bbox="216 675 930 826"> <p>13) On page 2-24, Table 2.4, NPS states that the analysis figure in total acres for BTNP is 88,132. This figure conflicts with the total acreage figure derived when you solve for total BTNP acres by setting up a ratio of 91% over 100% and equal this to 80,670 acres over x as can be done using information on page 2-11 at the bottom of the page under Alternative A, No-Action/Current Management. Using this equation the total BTNP acreage should be 88,648. Please explain the difference between these two figures for total acreage of BTNP.</p> </div> <p>114.</p> <div data-bbox="216 834 930 928"> <p>14) On page 2-65, Table 2.18, NPS Response Time, for the 60-day data collection permits, the Sierra Club requests that in the future it be notified in writing of the issuance of any such permits pursuant to 36 CFR 9.52(a) so that it can respond, if necessary, with comments as to their appropriateness.</p> </div> <p>115.</p> <div data-bbox="216 937 930 1015"> <p>15) On page 2-65, Table 2.18, Action column, NPS states that "Park staff prepares NEPA document (EA or EIS)". As mentioned previously NPS issues an EA and is biased against issuing an EIS for site specific oil/gas projects.</p> </div> <p>116.</p> <div data-bbox="216 1023 930 1117"> <p>16) On page 2-66, Overview of 36 CFR 9.32(e) Application Process, NPS is using a new word, "exemption" for this process. In the past NPS has used the word "waiver" from the POO requirement. Why is NPS using a new word to describe this process?</p> </div> <p>117.</p> <div data-bbox="216 1125 930 1170"> <p>17) On page 2-73, Performance Standards, NPS incorrectly calls the Texas Parks and Wildlife Department the "Texas Plants and Wildlife Department."</p> </div> <p>118.</p> <div data-bbox="216 1219 930 1273"> <p>Chapter 2 – Part III Mitigation Measures</p> <p>1) On pages 2-86 through 2-103, for many operating stipulations and recommended mitigation measures not all resources are listed that are benefited</p> </div>	<p>112. Taken in context with the remainder of the operating stipulation that states, "NSU in Riparian Corridors SMA with exceptions," the exceptions pertain to the Riparian Corridors SMA which is described in the row below the one cited. Impacts are described in Chapter 4, Environmental Consequences, under Impacts to Floodplains.</p> <p>113. To correctly calculate the acreage, we suggest you use the total 7,462 acres that would be closed year-round to geophysical exploration or drilling and production operations under Alternative A as shown in Table 2.5 on page 2-25 in the following way:</p> <p>88,132 total acres of the Preserve – 7,462 acres = 80,670 acres remaining for operations.</p> <p>80,670 acres remaining = $0.9153315 \times 100 = 91.53$ rounded to 91% of the Preserve</p> <p>88,132 total Preserve acreage</p> <p>By performing the inverse calculation without the exact percentage, you invariably derive an inaccurate total acreage of the Preserve. But, if you do use the correct percentage rather than the rounded number, you will also derive the 88,132 acres of the Preserve you are attempting to double-check.</p> <p>114. The 36 CFR § 9.52(a) notice is simply that – a notification. The Preserve Superintendent publishes a § 9.52(a) notice on the NPS's Planning, Environment and Public Comment website upon issuing temporary approval to the operator under 36 CFR § 9.38(a)(1) to collect basic information necessary to prepare a plan of operations. However, for efficiency and cost savings, the Superintendent routinely publishes the § 9.52(a) notice within a public scoping brochure to initiate a public scoping process under NEPA. It is during the public scoping process under NEPA that the Superintendent invites the public to comment on issues and alternatives to be considered in the NPS's analysis of the proposal.</p> <p>115. Through all of its NEPA analyses performed on previous proposals, NPS determined there will be no major effects from the proposals. Major effects would be considered significant effects and trigger the need for an EIS; the effects of previous proposals did not reach that threshold so no EIS's were triggered.</p> <p>116. The term "exemption" is a more accurate description of the situation when an operator need not comply with the remainder of the 9B regulations pursuant to § 9.32(e). Also see Response 46.</p> <p>117. This was corrected in the Final Plan/EIS.</p> <p>118. Operators are required to comply with all legal and policy requirements when conducting oil and gas operations in the Preserve. Mandatory requirements are called operating stipulations throughout the Plan/EIS and are shown at the beginning of Tables 2.20 through 2.22. In contrast, the recommended mitigation measures shown after the operating stipulations provide operators a list of possible techniques that could be selected when designing oil and gas operations to meet the NPS requirement at 36 CFR § 9.37 that "...operations will be conducted in a manner which utilizes technologically feasible methods least damaging to the federally-owned or controlled lands, waters and resources of the unit while assuring the protection of public health and safety." The NPS 9B regulations allow an operator flexibility in selecting</p>

COMMENTS	RESPONSES
<p>118. Cont.</p> <div data-bbox="212 310 930 1265" style="border: 1px solid black; padding: 10px;"> <p>by the stipulations/measures. Some mitigation measures should be mandatory requirements and not voluntary because of the critical environmental protection that they provide.</p> <p>The Sierra Club lists below the other resources benefited, some directly and some indirectly, by the stipulations/measures. The Sierra Club also lists which mitigation measures should be mandatory requirements and not voluntary.</p> <p>On page 2-86, Geophysical Exploration Operations, the third operating stipulation on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-86, Geophysical Exploration Operations, the fifth operating stipulation on the page, should include Visitor Use and Experience and Human Health and Safety as being benefited.</p> <p>On page 2-86, Geophysical Exploration Operations, the sixth operating stipulation on the page, should include Floodplains, Vegetation, Wetlands, Visitor Use and Experience, and Human Health and Safety as being benefited.</p> <p>On page 2-86, Geophysical Exploration Operations, the seventh operating stipulation on the page, should include Floodplains, Vegetation, Wetlands, Fish and Wildlife, Species of Special Concern, Cultural Resources, and Visitor Use and Experience as being benefited.</p> <p>On page 2-86, Geophysical Exploration Operations, the eighth operating stipulation on the page, should include Cultural Resources as being benefited.</p> <p>On page 2-87, Geophysical Exploration Operations, the fourth operating stipulation on the page, should include Air Quality, Geologic Resources, Water, Floodplains, Vegetation, Fish and Wildlife, and Human Health and Safety as being benefited.</p> <p>On page 2-87, Geophysical Exploration Operations, the fifth operating stipulation on the page, should include Air Quality, Geologic Resources, Water, Floodplains, Vegetation, Fish and Wildlife, Species of Special Concern, and Human Health and Safety as being benefited.</p> <p>On page 2-87, Geophysical Exploration Operations, the sixth operating stipulation on the page, should include Vegetation, Wetlands, and Cultural Resource as being benefited.</p> <p>On page 2-87, Geophysical Exploration Operations, the eighth operating stipulation on the page, should include Cultural Resource and Visitor Use and Experience as being benefited.</p> </div> <p style="text-align: right;">36</p>	<p>appropriate mitigation beyond legally mandated requirements to meet this NPS approval standard.</p> <p>The operating stipulations and mitigation measures shown in Tables 2.20 through 2.22 identify the primary resource(s) that would benefit from the use of the stipulation or measure. Other resources that would likely benefit from the stipulation or measures are also marked in the table. While the NPS acknowledges that the operating stipulations and mitigation measures shown in these tables could have a beneficial effect on many resources, only the resources that are most likely to be protected are noted in the tables. The NPS has made every effort to "...concentrate on the issues that are truly significant, rather than amassing needless detail." (CEQ regulations 1500.1(b)). With this in mind, the NPS has reviewed Tables 2.20 through 2.22 and, where appropriate, has revised the list of resources that are benefited by the use of specific resource protection techniques. These changes are shown in the Final Plan/EIS.</p>

COMMENTS	RESPONSES
<p>118. Cont.</p> <div data-bbox="212 310 930 1265" style="border: 1px solid black; padding: 10px;"> <p>On page 2-87, Geophysical Exploration Operations, the tenth operating stipulation on the page, should include Floodplain, Fish and Wildlife, Species of Special Concern, and Visitor Use and Experience as being benefited.</p> <p>On page 2-87, Geophysical Exploration Operations, the first mitigation measure on the page, should be a mandatory requirement and not voluntary.</p> <p>On page 2-88, Geophysical Exploration Operations, the first through fourth mitigation measures on the page, should be mandatory requirements and not voluntary.</p> <p>On page 2-88, Geophysical Exploration Operations, the seventh mitigation measure on the page, should include Air Quality as being benefited and should be a mandatory requirement and not voluntary.</p> <p>On page 2-88, Geophysical Exploration Operations, the ninth through twelfth mitigation measures on the page, should be mandatory requirements and not voluntary.</p> <p>On page 2-88, Geophysical Exploration Operations, the thirteenth mitigation measure on the page, should include Wetlands, Fish and Wildlife, and Species of Special Concern as being benefited and should be a mandatory requirement and not voluntary.</p> <p>On page 2-88, Geophysical Exploration Operations, the fifteenth mitigation measure on the page, should include Visitor Use and Experience as being benefited and be a mandatory requirement and not voluntary.</p> <p>On page 2-88, Geophysical Exploration Operations, the sixteenth mitigation measure on the page, should be a mandatory requirement and not voluntary.</p> <p>On page 2-88, Geophysical Exploration Operations, the seventeenth mitigation measure on the page, should include Fish and Wildlife, Species of Special Concern, Cultural Resources, and Visitor Use and Experience as being benefited and should be a mandatory requirement and not voluntary.</p> <p>On page 2-89, Geophysical Exploration Operations, the first through sixth, eighth through fourteen, sixteenth, and nineteen through twenty-second mitigation measures on the page, should be mandatory requirements and not voluntary.</p> <p>On page 2-89, Geophysical Exploration Operations, the first mitigation measure on the page, should include Fish and Wildlife, Species of Special Concern, Cultural Resources, and Visitor Use and Experience as being benefited.</p> </div> <p style="text-align: center;">37</p>	

COMMENTS	RESPONSES
<p>118. Cont.</p> <div data-bbox="214 310 930 1289" style="border: 1px solid black; padding: 10px;"> <p>On page 2-89, Geophysical Exploration Operations, the second mitigation measure on the page, should include Fish and Wildlife, Species of Special Concern, and Visitor Use and Experience as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the third mitigation measure on the page, should include Fish and Wildlife, Species of Special Concern, and Cultural Resources as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the fourth mitigation measure on the page, should include Species of Special Concern and Visitor Use and Experience as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the fifth mitigation measure on the page, should include Species of Special Concern and Visitor Use and Experience as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the sixth mitigation measure on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the eighth mitigation measure on the page, should include Geologic Resources and Cultural Resources as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the tenth mitigation measure on the page, should include Cultural Resources and Visitor Use and Experience as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the eleventh mitigation measure on the page, should include Floodplains, Vegetation, Cultural Resources, and Visitor Use and Experience as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the twelfth mitigation measure on the page, should include Cultural Resources and Visitor Use and Experience as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the thirteen mitigation measure on the page, should include Cultural Resources and Visitor Use and Experience as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the fourteenth mitigation measure on the page, should include Geologic Resources, Floodplains, Vegetation, and Cultural Resources as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the sixteenth mitigation measure on the page, should include Visitor Use and Experience as being benefited.</p> </div> <p style="text-align: center;">38</p>	

COMMENTS	RESPONSES
<p>118. Cont.</p> <div data-bbox="212 334 930 1265" style="border: 1px solid black; padding: 10px;"> <p>On page 2-89, Geophysical Exploration Operations, the seventeenth mitigation measure on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the eighteen mitigation measures on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the nineteenth mitigation measure on the page, should include Fish and Wildlife and Visitor Use and Experience as being benefited.</p> <p>On page 2-89, Geophysical Exploration Operations, the twentieth mitigation measure on the page, should include Fish and Wildlife, Species of Special Concern, and Visitor Use and Experience as being benefited.</p> <p>On page 2-90, Geophysical Exploration Operations, the first through the third, fifth through the eighth, twelfth, sixteenth, and eighteenth mitigation measures on the page, should be mandatory requirements and not voluntary.</p> <p>On page 2-90, Geophysical Exploration Operations, the second mitigation measure on the page, should include Floodplains, Vegetation, Wetlands, Fish and Wildlife, Species of Special Concern, and Visitor Use and Experience as being benefited.</p> <p>On page 2-90, Geophysical Exploration Operations, the third mitigation measure on the page, should include Floodplains, Fish and Wildlife, Species of Special Concern, and Visitor Use and Experience as being benefited.</p> <p>On page 2-90, Geophysical Exploration Operations, the fourth mitigation measure on the page, should include Air Quality and Visitor Use and Experience as being benefited.</p> <p>On page 2-90, Geophysical Exploration Operations, the fifth mitigation measure on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-90, Geophysical Exploration Operations, the sixth mitigation measure on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-90, Geophysical Exploration Operations, the seventh mitigation measure on the page, should include Visitor Use and Experience as being benefited.</p> </div> <p style="text-align: right;">39</p>	

COMMENTS	RESPONSES
<p>118. Cont.</p> <div data-bbox="212 310 930 1265" style="border: 1px solid black; padding: 10px;"> <p>On page 2-90, Geophysical Exploration Operations, the eighth mitigation measure on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-90, Geophysical Exploration Operations, the twelfth mitigation measure on the page, should include Vegetation and Wetlands as being benefited.</p> <p>On page 2-90, Geophysical Exploration Operations, the sixteenth mitigation measure on the page, should include Fish and Wildlife and Species of Special Concern as being benefited.</p> <p>On page 2-91, Geophysical Exploration Operations, the first mitigation measure on the page, should include Wetlands, Fish and Wildlife, Species of Special Concern, and Visitor Use and Experience as being benefited.</p> <p>On page 2-91, Geophysical Exploration Operations, the second mitigation measure on the page, should include Wetlands, Fish and Wildlife, Species of Special Concern, Cultural Resources, and Visitor Use and Experience as being benefited.</p> <p>On page 2-91, Geophysical Exploration Operations, the third mitigation measure on the page, should include Cultural Resources as being benefited. This measure should be modified to mention specifically silt fencing.</p> <p>On page 2-91, Drilling and Production Operations, the first operating stipulation on the page, the Sierra Club does not support allowing the use of water from the BTNP because water is available elsewhere and use of BTNP water reduces the water for vegetation and fish and wildlife.</p> <p>On page 2-91, Drilling and Production Operations, the third operating stipulation on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-91, Drilling and Production Operations, the fifth operating stipulation on the page, should include Visitor Use and Experience and Human Health and Safety as being benefited.</p> <p>On page 2-91, Drilling and Production Operations, the sixth operating stipulation on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-93, Drilling and Production Operations, the second operating stipulation on the page, should include Air Quality as being benefited.</p> </div> <p style="text-align: center;">40</p>	

COMMENTS	RESPONSES
<p>118. Cont.</p> <div data-bbox="212 310 930 1289" style="border: 1px solid black; padding: 10px;"> <p>On page 2-93, Drilling and Production Operations, the fourth operating stipulation on the page, should include Air Quality as being benefited.</p> <p>On page 2-94, Drilling and Production Operations, the fourth, fifth, and ninth operating stipulations on the page, should be requirements and not voluntary.</p> <p>On page 2-94, Drilling and Production Operations, the third operating stipulation on the page, should include Fish and Wildlife and Species of Special Concern as being benefited.</p> <p>On page 2-94, Drilling and Production Operations, the fourth operating stipulation on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-94, Drilling and Production Operations, the fourth through sixth operating stipulations on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-94, Drilling and Production Operations, the fifth and sixth operating stipulations on the page, should include Floodplains and Visitor Use and Experience as being benefited and should include the Production phase.</p> <p>On page 2-95, Drilling and Production Operations, the second operating stipulation on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-95, Drilling and Production Operations, the second, third, and fifth through seventh mitigation measures on the page, should be requirements and not voluntary.</p> <p>On page 2-95, Drilling and Production Operations, the third through sixth mitigation measures on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-95, Drilling and Production Operations, the ninth mitigation measure on the page, should include Air Quality as being benefited.</p> <p>On page 2-95, Drilling and Production Operations, the tenth mitigation measure on the page, should include Air Quality and Water as being benefited.</p> <p>On page 2-95, Drilling and Production Operations, the eleventh and twelfth mitigation measures on the page, should include Water as being benefited.</p> <p>On page 2-95, Drilling and Production Operations, the thirteenth mitigation measure on the page, should include Air Quality and Water as being benefited.</p> </div> <p style="text-align: center;">41</p>	

COMMENTS	RESPONSES
<p>118. Cont.</p> <div data-bbox="210 334 926 1242" style="border: 1px solid black; padding: 10px;"> <p>On page 2-96, Drilling and Production Operations, the second, third, and fifth through seventh mitigation measures on the page, should be requirements and not voluntary.</p> <p>On page 2-96, Drilling and Production Operations, the first and seventh mitigation measures on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-96, Drilling and Production Operations, the third and fourth mitigation measures on the page, should include Air Quality as being benefited.</p> <p>On page 2-96, Drilling and Production Operations, the fifth mitigation measure on the page, should include Air Quality and Visitor Use and Experience as being benefited.</p> <p>On page 2-96, Drilling and Production Operations, the sixth and seventh mitigation measures on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-96, Drilling and Production Operations, the eighth mitigation measure on the page, should include Air Quality Visitor and Use and Experience as being benefited.</p> <p>On page 2-96, Drilling and Production Operations, the second, third, and fifth through seventh mitigation measures on the page, should be requirements and not voluntary.</p> <p>On page 2-97, Drilling and Production Operations, the first through third, fifth, ninth, tenth, thirteenth, and sixteenth mitigation measures on the page, should be requirements and not voluntary.</p> <p>On page 2-97, Drilling and Production Operations, the first mitigation measure on the page, should include Cultural Resources and Visitor Use and Experience as being benefited.</p> <p>On page 2-97, Drilling and Production Operations, the third mitigation measure on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-97, Drilling and Production Operations, the fifth mitigation measure on the page, should include Air Quality as being benefited.</p> </div> <p style="text-align: center;">42</p>	

COMMENTS	RESPONSES
<p>118. Cont.</p> <div data-bbox="212 310 930 1265" style="border: 1px solid black; padding: 10px;"> <p>On page 2-97, Drilling and Production Operations, the ninth and tenth mitigation measures on the page, should include Air Quality as being benefited.</p> <p>On page 2-97, Drilling and Production Operations, the thirteenth mitigation measure on the page, should include Air Quality and Visitor Use and Experience as being benefited.</p> <p>On page 2-97, Drilling and Production Operations, the fifteenth mitigation measure on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-98, Drilling and Production Operations, the first, seventh, and eighth mitigation measures on the page, should be requirements and not voluntary.</p> <p>On page 2-98, Drilling and Production Operations, the second through fifth, tenth, thirteenth, and fourteenth mitigation measures on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-98, Drilling and Production Operations, the sixteenth mitigation measure on the page, should include flowlines/pipelines.</p> <p>On page 2-99, Drilling and Production Operations, the first and fourth mitigation measures on the page, should be requirements and not voluntary.</p> <p>On page 2-99, Drilling and Production Operations, the second and seventh mitigation measures on the page, should include Air Quality and Visitor Use and Experience as being benefited.</p> <p>On page 2-99, Drilling and Production Operations, the sixth mitigation measure on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-100, Drilling and Production Operations, the fourth, fifth, seventh, fifteenth, and sixteenth mitigation measures on the page, should include Air Quality as being benefited.</p> <p>On page 2-100, Drilling and Production Operations, the fifth, seventh, fifteenth, sixteenth, and twenty-second mitigation measures on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-101, Drilling and Production Operations, the first, third, fourth, sixth, seventh, ninth, tenth, twelfth, and sixteenth mitigation measures on the page, should include Air Quality as being benefited.</p> </div> <p style="text-align: center;">43</p>	

COMMENTS	RESPONSES
<p>118. Cont.</p> <div data-bbox="214 310 930 969" style="border: 1px solid black; padding: 10px;"> <p>On page 2-101, Drilling and Production Operations, the third mitigation measure on the page, should be requirements and not voluntary.</p> <p>On page 2-102, Well Plugging, Abandonment, and Site Reclamation, the second and tenth operating stipulations on the page, should be requirements and not voluntary.</p> <p>On page 2-102, Well Plugging, Abandonment, and Site Reclamation, the fourth operating stipulation on the page, should include Visitor Use and Experience as being benefited.</p> <p>On page 2-102, Well Plugging, Abandonment, and Site Reclamation, the fifth operating stipulation on the page, should include Geologic Resources, Water, Floodplains, Vegetation, Wetlands, Fish and Wildlife, and Species of Special Concern as being benefited.</p> <p>On page 2-103, Well Plugging, Abandonment, and Site Reclamation, the first through third mitigation measures on the page, should be requirements and not voluntary.</p> <p>On page 2-103, Well Plugging, Abandonment, and Site Reclamation, the first mitigation measure on the page, should include Geologic Resources as being benefited.</p> <p>On page 2-103, Well Plugging, Abandonment, and Site Reclamation, the second and third mitigation measures on the page, should include Air Quality and Visitor Use and Experience as being benefited.</p> <p>On page 2-103, Well Plugging, Abandonment, and Site Reclamation, the ninth and eleventh mitigation measures on the page, should include Visitor Use and Experience as being benefited.</p> </div> <p style="text-align: center;">Chapter 3 – Affected Environment</p> <p>119.</p> <div data-bbox="214 1011 930 1273" style="border: 1px solid black; padding: 10px;"> <p>1) On pages 3-4-3-7, Table 3.2, Nonfederal Oil and Gas Operations, NPS does not provide the proper status for all wells. For instance Comstock Oil & Gas, Inc., Collins #3; Comstock Oil & Gas, Inc. BSMC Unit B #1; Comstock Oil and Gas, Inc. BSMC Unit D #1; David Brothers Oil Producers, Inc., Johnson-Hayden #1; Davis Brothers Oil Producers, Inc.; Johnson-Reese #1; Davis brothers Oil Producers, Inc., Johnson-Whitman #1; Davis Brothers Oil Producers, Inc., Nelson-Kate #1; Davis Brothers Oil Producers, Inc., Nelson-Emmie #1; Davis Brothers Oil Producers, Inc., Nelson-Allie #1; Davis Brothers Oil Producers, Inc., Nelson-Lynn #1; Davis Brothers Oil Producers, Inc., Nelson-Lance #1; David Brothers Oil Producers, Inc., Nelson-Pidgeon #1; Davis Southern Operating Co., P.C. Bernal #1; Davis Southern Operating Co., P.C. Bernal #2; Davis Southern Operating Co., P.C. Bernal #3; and Davis Southern</p> </div> <p style="text-align: center;">44</p>	<p>119. The table was updated in the Final Plan/EIS.</p> <p>Also see Responses 31 and 124.</p>

