



**ENDEAVOR NATURAL GAS, L.P. PROPOSAL TO RE-ENTER AND  
PRODUCE THE BLACKSTONE MINERALS B-2 WELL FROM  
OUTSIDE BIG THICKET NATIONAL PRESERVE**

**FINDING OF NO SIGNIFICANT IMPACT**

**BACKGROUND**

In November 2008, the National Park Service (NPS) began the evaluation of potential environmental impacts from re-entering and directionally drilling one well from an existing surface location outside the Beaumont Unit (Unit) of Big Thicket National Preserve (Preserve) to reach a bottomhole target beneath the Preserve. This analysis was conducted for Endeavor Natural Gas, L.P.'s (Endeavor) proposed re-entry of the existing Blackstone Minerals B-2 well. On November 21, 2008, a scoping notice was published for public review and comment.

One of the purposes of the analysis was to determine whether Endeavor's directional well would qualify for an exemption from the NPS's nonfederal oil and gas rights regulations found at 36 CFR 9B. Specifically, § 9.32(e) governs operators that propose to develop nonfederal oil and gas rights in any unit of the National Park System by directionally drilling a well from a surface location outside unit boundaries to a location under federally-owned or controlled lands within park boundaries. Per § 9.32(e), an operator may obtain an exemption from the 9B regulations if the Regional Director is able to determine from available data that a proposed drilling operation under the park poses "no significant threat of damage to park resources, both surface and subsurface, resulting from surface subsidence, fracture of geological formations with resultant fresh water aquifer [sic] contamination or natural gas escape or the like." This analysis was compiled into an Environmental Assessment (EA), which also served the purpose of disclosing to the public the potential impacts on the human environment, both inside and outside the Unit.

The EA was released on September 21, 2009. After 30-day public review and comment periods, the NPS considered substantive comments received and prepared this Finding of No Significant Impact (FONSI).

This document records 1) a FONSI as required by the National Environmental Policy Act (NEPA) of 1969, 2) a determination of no impairment as required by the NPS Organic Act of 1916, and 3) a decision to exempt the operations from the NPS nonfederal oil and gas regulations found at 36 Code of Federal Regulations (CFR) Part 9, Subpart B in accordance

with 36 CFR § 9.32(e). All impact threshold definitions (negligible, minor, moderate, major) referred to in this FONSI are defined in the EA.

### *Big Thicket National Preserve Enabling Act*

When Congress authorized the establishment of the Preserve on October 11, 1974, the U.S. Government acquired surface ownership of the area. Private entities retained the subsurface mineral interests on most of these lands, while the State of Texas retained the subsurface mineral interests underlying the Neches River and navigable reaches of Pine Island Bayou. Thus, the federal government does not own any of the subsurface oil and gas rights in the Preserve. To protect the Preserve from oil and gas operations that may adversely impact or impair Preserve resources and values, the NPS regulates those operations in accordance with NPS laws, policies and regulations. The NPS recognizes that the applicants possess private property rights to nonfederal oil and gas in the Preserve.

## **PREFERRED ALTERNATIVE**

Under the preferred alternative, Endeavor will directionally re-enter and drill the Blackstone Minerals B-2 Well from a location outside the Preserve as proposed in their application.

### *Access*

No surface access in the Unit would be needed for any phase of drilling, production, transportation, or reclamation activities. Access to the Blackstone Minerals B-2 well would be along the existing Burge Road. No improvements to the existing road would be needed. An existing approximately 20 foot spur would be improved with aggregate material from the edge of the public road to the well pad (not within the Preserve).

### *Well Pad*

The well pad would measure approximately 150 feet x 550 feet (82,500 sq. ft. or 1.89 acres). The well pad area would be upgraded using heavy machinery (bulldozer and maintainer). Gravel would be placed on the entire 1.89 acre existing well pad site to provide workspace necessary to drill the well.

The well would be sited approximately 1,300 feet northwest of the Unit boundary. The well pad would extend to within approximately 1,150 feet of the Unit boundary. A 15-foot x 60-foot washout/emergency pit, lined with 12-mil plastic, would be constructed south of the existing well pad site to be used as a retention basin for washing the steel rig tanks and to contain any excess runoff from the area of the rig equipment. The 12-mil plastic liner would be removed upon completion of the drilling operation and disposed of in an approved landfill. Ring levees would be constructed around the remaining sides of the drill site to contain runoff. A 35-foot x 25-foot unlined fresh-water pit and water well would be placed in the southeast corner of the pad. Construction of the well pad is not anticipated to require fill

into waters of the U.S. and, therefore, would not require a § 404 permit from the U.S. Army Corps of Engineers.

### *Drilling*

Endeavor's proposed operations inside of the Preserve would consist of re-drilling to remove existing plugs in an existing 12.25-inch hole with a seven-inch production liner from some point below approximately 8,921 feet total vertical depth (TVD) to a milling point of 9,214 feet, then drilling a six-inch hole to target depths of about 9,969 feet TVD into the Yegua Formation. The well would then be completed with a 4.5-inch production liner, or plugged and abandoned as a dry hole.

As per Texas Commission on Environmental Quality (TCEQ) Form TCEQ-0051 (Depth of Usable Quality Ground Water to be Protected) usable-quality water occurs from the land surface to a depth of 1,850 feet. The interval from the land surface to a depth of 100 feet contains water of superior quality which must be isolated from water in underlying beds. Endeavor would comply with all provisions of the Texas Railroad Commission's (RRC's) statewide oil and gas rules to drill and eventually plug the well to ensure the protection of usable quality water zones.

The proposed re-completion drilling is expected to take approximately four to six weeks. Water-based drilling mud would be used for the entire depth of the well. All mud and cuttings would be contained in a closed system of above-ground metal storage tanks to recirculate drilling mud and above-ground steel tanks used to contain the drill cuttings prior to removal from the site.

### *Flowlines*

No flowlines would need to be constructed or buried outside of the existing well pad site, should the well be successfully re-complete as a producing well. Existing buried pipelines, accessible from within the well pad site, would be used to transport gas.

### *Production Facilities*

If oil and/or gas are discovered and the proposed well re-entry is completed as a producer, production facilities would be constructed within the areas utilized to drill the wells. The production facility would be developed on the existing rock pad. Features could include the wellhead, line heaters and separation devices, a glycol dehydration unit, a tank battery consisting of a water tank and two condensate tanks, a series of flowlines connecting the components, and a product sales line and meter. The facility would be developed and maintained according to Endeavor's Spill Prevention Control and Countermeasure (SPCC) Plan and 40 CFR 112.7.

The tank battery would have an earthen fire wall (covered with rock to reduce erosion) surrounding the feature that provides secondary containment with a capacity of 1.5 times the capacity of the single largest tank. The approximate height of the firewall would be two feet. The off-load connection would have a safety drip device below it to catch any dripping fluid lost during hook-up and disconnection.

All oil and water (storage) lines from the production facility to the tanks located at the existing well pad site would be buried at a depth of one foot below the surface.

### *Reclamation Plans*

Once re-drilling and completion operations are finished, or if the well is not productive, the portion of the drill site no longer needed would be reclaimed, and the washout/emergency and water pits would be filled with native soil in accordance with RRC Statewide Rule 8. Upon final abandonment, the equipment and all related materials would be removed, and the well plugged according to RRC Statewide Rules 13 and 14. The site would be reclaimed in conformance with the surface use agreement between Endeavor and Blackstone Minerals, LP. The disposal of excess drill fluids and water would occur off-site or downhole depending on Endeavor obtaining the necessary permits and approvals.

## **MITIGATING MEASURES**

In order to reduce impacts on the human environment, Endeavor has incorporated the mitigation measures found in Table 1 of Appendix A as part of their application for the proposed operations. Although many of the mitigation measures are required by other state and federal requirements, mitigation is not required under §9.32(e) for operations that qualify for an exemption with no mitigation.

## **ALTERNATIVES CONSIDERED**

During the scoping process, alternative locations were considered for siting the well. These alternative locations were discussed in consultation with Endeavor, Environmental Resources Management (ERM), Endeavor's contracted consultant, and NPS staff at the Preserve, Regional, and Washington Offices. Alternative locations for siting the well within the Preserve were dismissed from further analysis. This would have entailed access into the Units and approved plans of operations. There are no existing roads inside the Unit near the locations considered; therefore, new access roads would have been needed. Access through the Unit would have required crossing sustainably inundated wetlands and floodplains. Although drilling a well from inside the Unit is technically feasible, this alternative was judged to be unreasonable in terms of economics, logistics, degree of environmental impact, and time required to implement the proposal. NPS acquisition of the mineral rights that are part of Endeavor's proposal was also considered. With respect to Endeavor's proposal, mitigation measures were identified and applied, most notably directional drilling from surface locations outside the Preserve. These mitigation measures substantially reduced the potential for

adverse impacts to the Units' resources and values, visitor use and experience, and public health and safety. As a result, the acquisition of mineral rights was dismissed from further consideration in this EA.

## **ENVIRONMENTALLY PREFERRED ALTERNATIVE**

Section 101 of NEPA states that "...it is the continuing responsibility of the Federal Government to...(1) fulfill the responsibilities of each generation as trustee of the environment for succeeding generations; (2) assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings; (3) attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences; (4) preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice; (5) achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and (6) enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources" (42 U.S.C. §4321*et seq.*).

The environmentally preferred alternative for drilling and producing the directional well is based on these national environmental policy goals. Under Alternative A, No Action, the well will not be drilled. Because there will be no new impacts, Alternative A will provide the greatest protection of area and the Unit's resources and values. Alternative A meets five of the six criteria (1 thru 4, and 6) and is the environmentally preferred alternative.

Endeavor's proposal, the Preferred Alternative (Alternative B), will have greater effects on the environment because of the drilling and production activities. The Preferred Alternative meets four of the six criteria (1, 2, 4, and 5). Although mitigating measures will avoid or reduce effects to the Unit's resources and values, there could still be effects, and therefore, this alternative will not meet the NPS's environmental policy goals as effectively as the No Action Alternative.

The NPS has chosen to accept Alternative B as the Preferred Alternative because Endeavor holds valid oil and gas lease rights, which, if developed, will not result in major impacts or an impairment of park resources and values. The NPS believes this alternative will fulfill its park protection mandates while allowing Endeavor to exercise their property interests.

## **WHY THE PREFERRED ALTERNATIVE WILL NOT HAVE A SIGNIFICANT EFFECT ON THE HUMAN ENVIRONMENT**

*Impacts that may be both beneficial and adverse. A significant effect may exist even if the federal agency believes that on balance the effect will be beneficial.*

Implementation of the preferred alternative will result in adverse impacts ranging from short-to long-term and negligible to moderate. Resource topics whose projected impacts exceeded

minor levels were retained for further analysis within the EA. The impacts on geology and soils, water resources, floodplains and wetlands, vegetation, fish and aquatic life, threatened and endangered species and species of management concern, cultural resources, air quality, catastrophic incidents, socioeconomics, environmental justice, prime or unique farmland, and climate change did not exceed minor levels and were therefore dismissed from further analysis.

Soundscape impacts will occur from connected actions outside the Preserve boundaries, mainly due to the operation of machinery and trucks. These will be no worse than moderate, because the noise produced by the machines is attenuated by surrounding vegetation, the most intense impacts will be temporary (four to six weeks), the machines are located well outside the boundary, and they are not near designated visitor use areas.

Lightscape impacts will occur from connected actions outside the Preserve boundaries, mainly during the drilling phase of the operation. These impacts will be no worse than moderate, because the most intense impacts will be temporary (four to six weeks), the artificial lighting is located well outside the boundary, and it is not near designated visitor use areas.

Adjacent land impacts, specifically to geology and soils and vegetation will occur from connected actions outside the Preserve boundaries. These impacts will be no worse than moderate. Geology and soil and vegetation impacts will be limited to the project footprint outside Preserve boundaries, which is within a location previously used as a wellpad.

Visitor use and experience will occur from connected actions outside the Preserve boundaries; however visitor use and experience within the Preserve will only experience negligible impacts. There will be no impacts to visitor use and experience from in-park operations.

If production of hydrocarbons resulted from the Preferred Alternative, it will result in only a negligible beneficial effect on the local or regional economy, because the proposed well represents such a small amount the total production in the RRC District 3. The amount of revenue generated from leases, royalties, and rents will be very limited, and revenue related to production will not necessarily be retained locally. Revenue from sales of goods to crews will be limited and sporadic, and short-term.

*The degree to which the proposed action affects public health or safety.*

The wellbore for the Blackstone Minerals B-2 well crosses into the Preserve at 8,820 feet. The wellbore crosses into the Preserve below the usable quality water zones designated by the TCEQ. Because there will be no potential for a catastrophic incident, such as well blowout, well fire or major spill occurring as a result of the in-park operations, and because the likelihood of such incidents from the connected actions is very low, it is not expected that catastrophic incidents, such as well blowouts, well fires and major spills in and outside the Units, will result in more than negligible adverse impacts.

*Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.*

Cultural resources effects are discussed in a later section. There are no wild and scenic rivers or ecologically critical areas within the operations area. Soils inside the Preserve and on other NPS-administered lands are not considered prime and unique farmland soils because they are public lands unavailable for food or fiber production. Further, the NPS does not assess effects under the Farmland Protection Policy Act (Public Law 97-98) to the proposed project activities outside of NPS administered lands because the NPS has no regulatory authority on those lands.

There will be no direct impacts to wetlands or waters of the United States due to the proposal; however, potential water resources impacts may occur from connected actions outside the Preserve boundaries, mainly due to release events. These impacts would be no worse than moderate due to the use of ring levees and a SPCC Plan.

*The degree to which the effects on the quality of the human environment are likely to be highly controversial.*

Under NEPA "controversial" refers to circumstances where a substantial dispute exists as to the environmental consequences of the proposed action and does not refer to the existence of opposition to a proposed action, the effect of which is relatively undisputed (43 CFR 46.30). Concerns raised regarding this have primarily focused on the framework for NPS decision-making, rather than the actual environmental effects. NPS believes the environmental impacts are well-understood and that there is no substantial factual dispute.

*The degree to which the possible effects on the quality on the human environment are highly uncertain or involve unique or unknown risks.*

There were no highly uncertain effects, or unique or unknown risks identified with this proposal. As of September 2008, there were approximately 7,393 regular producing oil wells and 3,989 regular producing gas wells in RRC District 3, totaling 11,382 wells. Of these wells, a total of 898 wells or approximately eight percent of the RRC District 3 total are located within Hardin County, where the project is located. These include 818 oil wells (11 percent of the RRC District 3 total) and 80 gas wells (two percent of the RRC District 3 total). The likelihood of well blowouts, well fire or major spills within the RRC District 3 has been analyzed by the RRC and is detailed within the EA.

*The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.*

The NPS has addressed the future of nonfederal oil and gas operations within the Preserve's *Oil and Gas Management Plan* published in 2006. This plan presents a reasonably foreseeable development scenario for the Preserve derived using available drilling, production, and other geologic data for the area, and analyses the impact of the estimated wells on Preserve

resources. This EA is consistent with the actions described in that plan, and therefore there is no precedent set.

*Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.*

In its EA, the NPS has disclosed to the public the potential impacts that could occur both inside and outside of the Preserve. The NPS has also analyzed the cumulative impacts of past, present and reasonably foreseeable actions within and outside Preserve boundaries. No significant cumulative impacts were identified in the EA.

*The degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places or may cause loss or destruction of significant scientific, cultural, or historical resources.*

Under the Preferred Alternative, the well will be directionally drilled from a surface location outside the Unit. The wellbore will cross into the Unit at a depth below usable quality groundwater to extract hydrocarbons and other fluids from beneath the Unit. The well will qualify for an exemption with no mitigation because the well will originate on land located outside of the Unit, and the wellbore will cross through the Unit at a sufficient depth so as to have no impact on the surface of the Unit. Under this scenario, actions by the NPS with respect to the National Historic Preservation Act are non-discretionary. Because the in-park operations will have no effect on cultural resources inside the Unit, the NPS has no §106 responsibility, nor authority, associated with the well for the proposed in-park operations for which a §9.32(e) exemption is being evaluated.

The NPS has no authority under 36 CFR §9.32(e) to require Endeavor to contract an archeological study in the project area on land outside the Unit. However, ERM archeologists conducted an archeological review of the Texas Archeological Sites Atlas maintained by the Texas Historical Commission (THC) for the proposed Blackstone Minerals B-2 well pad. No cultural resources were identified during this research within the one-mile search radius. Furthermore, Endeavor has chosen a previously disturbed industrial well pad site for Project development.

Proposed ground disturbing activities anticipated during construction could affect areas outside the Unit boundary where no cultural resource surveys have been completed. Ground disturbing activities associated with the construction of the proposed drilling/production pads, unless avoided or mitigated, could result in long-term, localized, negligible to moderate, adverse impacts to those resources.

*The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.*

Under NPS policy, the proposed operations qualify for an exemption with no mitigation. Under this scenario, actions by the NPS with respect to the Endangered Species Act (1973) are non-discretionary. The well will originate on land located outside of the Unit, and the wellbore will cross through the Unit at a sufficient depth to preclude any effect on surface resources (species or habitat). Therefore, the NPS has no Endangered Species Act §7 responsibility or authority associated with the proposed wells, other than assessing potential impacts to threatened and endangered species from connected actions outside the Units.

NPS determined that neither the directional drilling and production of the Blackstone Minerals B-2 well will have an effect on federally-listed threatened and endangered species or their habitat in or outside the Unit, nor will there be an effect to the state-listed species that may possibly occur in the Unit. This determination is based upon a combination of factors. First, the habitat in the project area is not suitable for any of the species identified by U.S. Fish and Wildlife Service. Second, there is an absence of observations of any of these species based on site-specific surveys completed by the proponent. Third, the depth with which the well would enter the Unit eliminates the possibility of surface habitat disturbance. Lastly, mitigation measures have been designed into the project to reduce impacts to wildlife.

*Whether the action threatens a violation of federal, state, or local law or requirements imposed for the protection of the environment.*

The Preferred Alternative is in compliance with all applicable RRC, TCEQ and federal environmental protection laws and regulations.

## **APPROPRIATE USE, UNACCEPTABLE IMPACTS, AND IMPAIRMENT**

Sections 1.5 and 8.12 of NPS *Management Policies* underscore the fact that not all uses are allowable or appropriate in units of the National Park System. The proposed use was screened to determine consistency with applicable laws, executive orders, regulations, and policies; consistency with existing plans for public use and resource management; actual and potential effects to park resources; total costs to the NPS; and whether the public interest would be served. Although the preferred action is exempted from the NPS nonfederal oil and gas regulations per 36 CFR § 9.32(e), the exploration for and extraction of oil, gas and other minerals is addressed in the Big Thicket Enabling Act (16 U.S. Code § 698c(b)), as well as the Preserve's *General Management Plan* (1980) and *Oil and Gas Management Plan* (2006). Therefore, the Park Service finds that the preferred alternative is an appropriate use. Because the application of mitigating measures is expected to be successful in ensuring that no major adverse impacts would occur and that satisfactory reclamation of the disturbed area is expected to be achievable, implementation of the preferred alternative would not result in any unacceptable impacts.

In analyzing impairments in the NEPA analysis for this project the NPS takes into account that if an impairment were likely to occur, such impacts would be considered to be major or significant under Council on Environmental Quality regulations. This is because the context and intensity of the impact would be sufficient to render what would normally be a minor or

moderate impact to be major or significant. Taking this into consideration, NPS guidance documents note that “Not all major or significant impacts under a NEPA analysis are impairments. However, all impairments to NPS resources and values would constitute a major or significant impact under NEPA. If an impact results in impairment, the action should be modified to lessen the impact level. If the impairment cannot be avoided by modifying the proposed action, that action cannot be selected for implementation.” *Interim Technical Guidance on Assessing Impacts and Impairment to Natural Resources* NPS, Natural Resource Program Center, July 2003. As described in 2006 *Management Policies* (§1.4.7.1), impacts can be viewed on a scale that runs from no impact to too much impact. The minor to moderate impacts described in this EA and FONSI are less than major impacts, major impacts are less than unacceptable impacts, and unacceptable impacts are less than impairment (minor<moderate<major<unacceptable<impairment).

The NPS fully analyzed soundscapes, lightscares, adjacent lands, and visitor use and experience in the EA. The NPS has used these analyses to make the following impairment conclusions:

Soundscapes: Although the conservation of soundscapes within the Preserve is 1) necessary to fulfill specific purposes identified in the establishing legislation of the Preserve; 2) key to the natural integrity of the Preserve; and 3) identified as a goal in the Preserve’s *General Management Plan* (1980), there will be no major adverse impacts as a result of the proposal, thus, the proposal will not result in its impairment. Further, the most intense impacts will be temporary (four to six weeks).

Lightscares: Although the conservation of lightscares within the Preserve is 1) necessary to fulfill specific purposes identified in the establishing legislation of the Preserve; 2) key to the natural integrity of the Preserve; and 3) identified as a goal in the Preserve’s *General Management Plan* (1980), there will be no major adverse impacts as a result of the proposal, thus, the proposal will not result in its impairment. Further, the most intense impacts will be temporary (four to six weeks).

In addition to reviewing the definition of “significantly” under the NEPA regulations, the NPS has determined that implementation of the preferred alternative would not constitute an impairment to the integrity of Big Thicket National Preserve’s resources or values as described by NPS *Management Policies* (NPS 2006 § 1.4). This conclusion is based on the NPS’s analysis of the environmental impacts of the proposed action as described in the EA, the public comments received, relevant scientific studies, and the professional judgment of the decision-maker guided by the direction in 2006 NPS *Management Policies*. The EA identified less than major adverse impacts on all resources considered in the EA. This conclusion is further based on the Superintendent’s professional judgment, as guided and informed by the Preserve *General Management Plan* (1980), the Preserve *Oil and Gas Management Plan* (2006), the Preserve *Resource Management Plan* (1996) and the regulations found at 36 CFR Part 9 Subpart B.

## **PUBLIC INVOLVEMENT**

The EA was made available for public review and comment during a 30-day period ending October 21, 2009. A direct mailing notice of availability for the document was distributed to the Preserve's mailing list and the document was posted to the PEPC website. The following state and federal agencies were sent notices of availability: the RRC District 3; the THC; the Texas Parks and Wildlife Department; the U.S. Army Corps of Engineers Galveston District; and the U.S. Fish and Wildlife Service. Also, a notice of availability was sent to the Alabama-Coushatta Tribe of Texas, the Big Thicket Association, Davis Bros. Oil Producers Inc, Endeavor Natural Gas, L.P., Environmental Resources Management, the Lone Star Chapter and Houston Regional Group of the Sierra Club, the Texas Conservation Alliance, Lower Neches Valley Authority, and an unaffiliated individual from Beaumont, Texas. A notice of availability was also sent to the congressional offices of Senator John Cornyn, Senator Kay Bailey Hutchinson, and Congressman Kevin Brady.

One response was received regarding the EA from the Sierra Club Lone Star Chapter. The NPS determined there were numerous substantive comments from the Sierra Club's comment letter. Responses to the substantive comments are attached. The FONSI will be sent to those who provided substantive comments on the EA, or those who requested a copy.

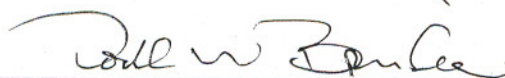
## **CONCLUSION**

As described above, the Preferred Alternative does not constitute an action meeting the criteria that normally require preparation of an environmental impact statement (EIS). The Preferred Alternative will not have a significant effect on the human environment. Environmental impacts that could occur are limited in context and intensity, with generally adverse impacts that range from localized to widespread, short- to long-term, and negligible to moderate. There are no unmitigated adverse effects on public health, public safety, threatened or endangered species, sites or districts listed in or eligible for listing in the National Register of Historic Places, or other unique characteristics of the region. No highly or controversial impacts, unique or unknown risks, significant cumulative effects, or elements of precedence were identified. Implementation of the action will not violate any federal, state, or local environmental protection law. Based on the foregoing, it has been determined that an EIS is not required for this project and thus will not be prepared.

## **36 CFR 9B DECISION**

In accordance with 36 CFR 9.32(e) I hereby grant, to Endeavor Natural Gas, L.P., an exemption with no mitigation to the NPS nonfederal oil and gas regulations found at 36 CFR Part 9 Subpart B.

Recommended: \_\_\_\_\_



Superintendent, Big Thicket National Preserve

10/22/09

Date

Approved:

Michael Snyder

Regional Director, Intermountain Region

10/22/09

Date

## Appendix A

Table 1. Mitigation Measures for the Blackstone Minerals B-2 Well for the Preferred Alternative

No.	Mitigation Measures - Proposed Action (Alternative B)	Resource(s) Protected	Required or Voluntary
<b>Project Planning and Site Construction</b>			
1	Conduct an archeological desktop survey of the proposed project site	Archaeological resources	Voluntary
2	Conduct a wetland delineation of the proposed project site	Wetlands and Water resources	Voluntary
3	Conduct a threatened and endangered species survey of the proposed project site	Threatened, endangered or otherwise protected resources	Voluntary
4	Site well, access road, pipeline and production facilities outside of the Unit	All natural resources and values in the Preserve	Required to qualify for NPS exemption under 36 CFR § 9.32(e)
5	Use an existing industrial upland site for the well pad, an existing public road for the access road, and existing flowline accessible from within the site	soils, water resources, floodplains, wetlands, vegetation	Voluntary
6	Prepare and comply with a SPCC Plan	All natural resources, and human health safety	EPA requirement as per 40 CFR, Chapter 1, Subchapter D, Part 112 – Oil Pollution Prevention
7	Prepare and comply with a Storm Water Pollution Prevention Plan (SWPPP)	Water resources, soils, vegetation	Voluntary
8	Schedule construction to limit activities during rain events	Water resources, soils, vegetation	Voluntary
9	Construct ditch and one-foot high ring levee around the well pad that can contain approximately 560 barrels (bbls) or 1.5 times capacity of the largest storage tank	Water resources, soils, vegetation	Voluntary
10	Construct a 15-foot by 60-foot washout/emergency pit and line with 12 mil plastic	Water resources, soils, vegetation	Construction, design and maintenance of pit in conformance with RRC Statewide Rule 8, liner would be voluntary
<b>Well Drilling</b>			
11	Directionally drill well so that wellbore intercepts useable quality groundwater outside of Preserve	Groundwater in Preserve	Required to qualify for NPS exemption with no mitigation measures
12	Use a closed-loop containerized mud System	Water resources, soils, vegetation	Voluntary
13	Set surface casing according to State of Texas RRC requirements	Groundwater	RRC requirement as per Statewide Rule 13(b)(2)
14	Adjust drilling mud to release and flare any pressurized hydrogen	Air Quality	Voluntary

No.	Mitigation Measures - Proposed Action (Alternative B)	Resource(s) Protected	Required or Voluntary
	sulfide (H <sub>2</sub> S) encountered during drilling. Drilling would be discontinued until the pressure is stabilized		
15	Dispose of drilling mud and well cuttings off-site or downhole	All natural resources located on and adjacent to well pad	Disposal in accordance with RRC Statewide Rule 8
<b>Well Production</b>			
16	Reduce size of well pad to after drilling completion and fill in washout/emergency and water pits with native soil in accordance with Statewide Rule 8	Water resources, soils, vegetation	Reduction in well pad size voluntary, fill in washout/emergency and water pits required by RRC statewide Rule 8(d)(4)(G)
17	Construct a 2-foot earthen, rock covered or metal firewall around the tank battery with a capacity 1.5 times (approximately 560 bbls) the largest tank	Water resources, soils, vegetation	EPA requirement as per 40 CFR, Chapter 1, Subchapter D, Part 12.9(c)(2) to construct secondary containment capable of holding the volume of largest tank plus sufficient freeboard to contain precipitation, voluntary to build capacity for holding 1.5 times volume of largest tank
18	Install a safety drip device on the off-load connection	Soils	Voluntary
19	Use storm water best management practices (e.g., mulching, seeding, silt fences, and hay bales)	Water resources, soils	Voluntary
20	Wind-erosion preventive measures will include watering if dust conditions are determined to be detrimental during construction	Air quality, vegetation,, water resources	Voluntary
21	Notify regulatory authorities and Preserve Superintendent within 24 hours in the event of a release or spill of hydrocarbon condensate, crude oil, or other contaminating substance exceeding five bbls	All natural resources	RRC requirement to report well blowout/well control problems or spills exceeding 5 bbls as per Statewide Rules 20 and 91(e), in the event of any condensate spill, operator must consult with RRC as per Statewide Rule 91(b) and any spills of crude oil into water must be reported to the RRC as per Statewide Rule 91(e)(3), spills of other contaminating substances may require reporting to the TCEQ or Environmental Protection Agency under a variety of laws and regulations depending on the substance released, the amount, whether or not the release was into soil, water or air, whether the release was ongoing, etc., notification to NPS voluntary
<b>Well Plugging</b>			
22	Comply with all applicable state and federal regulations regarding plugging	All natural resources	RRC requirement as per Statewide Rule 14
<b>Reclamation</b>			
23	If well re-completion does not produce adequate hydrocarbons to justify operating, equipment and related materials would be removed and the area restored.	All natural resources	RRC requirements as per Statewide Rule 14(d)(12), this section of the Statewide Rules requires an operator to "contour the location to discourage pooling of surface water at or ground the facility site"

## ERRATA SHEET

All references to Section 1.4.1 should be 1.7.1.

References to Section 1.4.6 should be 1.7.6.

### *3.6.3.3 Impacts on Visitor Use and Experience in the Beaumont Unit*

Under Alternative A, No Action, the Blackstone B-2 well would not be drilled, resulting in no new impacts on visitor use and experience within the subject Unit.

**Cumulative Impacts.** Vehicle uses, existing and future oil and gas operations in and outside the Unit, maintenance of oil and gas pipelines, routine park operations, recreational activities including hunting in and outside the Unit, and forestry operations adjacent to the Unit are anticipated to result in localized, short- to long-term, negligible to minor, adverse impacts on visitor use and experience.

An analysis of the cumulative effect of drilling and producing the up to 40 wells projected in the RFD scenario was performed in the Preserve's *Oil and Gas Management Plan Environmental Impact Statement* (NPS 2005), and negligible cumulative adverse impacts were identified for this impact topic. The effects of the Proposed Action would contribute negligible adverse impacts to overall cumulative impact of all actions in the region.

**Conclusion.** Under Alternative A, No-Action, the well would not be drilled; therefore, there would be no new impacts on visitor use or experience within the subject unit. It is expected that existing and reasonably foreseeable uses in the analysis area would continue with short- to long-term, negligible to minor, adverse cumulative adverse impacts on visitor use and experience.

### *3.6.3.4 Impacts on Visitor Use and Experience in the Beaumont Unit*

**Impacts from In-Park Operations.** Under the Proposed Actions, the well would be re-entered and directionally drilled from a surface location approximately 1,500 feet from the boundary of the Preserve. The wellbores would cross into the Unit at considerable depths (see Section 1.7.1). Therefore, there would be no impacts on visitor use and experience within the Unit from the subsurface oil and gas operations in the Unit.

**Impacts from Connected Actions.** It is unlikely that many visitors would be in the vicinity of the proposed re-drilling and production activities associated with the existing Blackstone B-2 well pad site. The areas adjacent to the site are not located in high visitor use areas of the Preserve. The closest picnicking and parking area is located approximately 1.75 miles to the southwest, there are no hiking trails or bird watching hotspots in the vicinity of the well pad site. Furthermore, due to the distance from the Preserve and the dense forested vegetation between the Preserve and the Connected Actions, it is not anticipated that visitors will see the activities. Impacts to Preserve visitors from connected actions could include the effects of releases of contaminants from the sites, or noise and light from construction and operations. The potential for contamination of off-site areas is very low, as described under in Section 1.7.1.

### *4.0 Consultation and Coordination*

The second bullet reads:

Lonestar Chapter and Houston Regional Group of the Sierra Club- requesting that an EIS be prepared in lieu of this EA, and commenting on NPS policies including cumulative effects analyses and the use of "conclusory" statements. No comments were made for new alternatives or impacts not already addressed in this EA.

## RESPONSES TO SUBSTANTIVE COMMENTS

#	SUBSTANTIVE COMMENT	NPS RESPONSE
1.	It appears once again that NPS has failed to take the "hard look" that Judge Bates admonished it to do. Ultimately, the Sierra Club asks the question "Why are moderate environmental impacts acceptable in the National Park System and in BTNP?"	In the EA, the NPS took a "hard look" by considering the direct, indirect, and cumulative impacts of the proposed action on the environment, along with connected, cumulative and similar actions. Impacts were described in terms of context, duration, and timing using four impact intensity threshold definitions (negligible, minor, moderate, major), which are defined for each impact topic in the <i>Affected Environment</i> and <i>Environmental Consequences</i> chapter. If the intensity of an impact could be described quantitatively, the numerical data was presented; otherwise the impacts were described qualitatively.
2.	Page 5, under 1.2.2 Big Thicket National Preserve Enabling Act, states, 'The authorizing legislation directs the Secretary of the Interior to administer the lands within the Preserve "in a manner which will assure their natural and ecological integrity in perpetuity". How can moderate environmental impacts assure BTNP's natural ecological integrity in perpetuity? The NPS never explains this dichotomy in the EA.	<p>The analysis in the EA demonstrates that the re-entry, directional drilling and production of the Endeavor well from outside the boundary of the Preserve would create impacts that range in intensity from negligible to moderate levels. Whether impacts are significant under NEPA and whether they are unacceptable under the NPS <i>Management Policies</i> are separate questions.</p> <p>The CEQ defines significant environmental impacts using the 10 guidelines listed in this FONSI. In the EA, significant impacts are defined as synonymous with major impacts, which is a typical methodology used in NPS environmental documents. In the FONSI, NPS relies on the major impact threshold definition, generally equating significant impacts with major impacts, and also applies the CEQ criteria. There are no major (significant) effects resulting from this proposal.</p> <p>The 2006 <i>Management Policies</i> state (§8.1.1) "the fact that a park use may have an impact does not necessarily mean it will be unacceptable or impair</p>

		<p>park resources or values for the enjoyment of future generations. Impacts may affect park resources or values and still be within the limits of the discretionary authority conferred by the Organic Act. In these situations, the Service will ensure that the impacts are unavoidable and cannot be further mitigated." The Preserve Enabling Act specifically lists the extraction of minerals, oil, and gas as an appropriate use if such activities could "be conducted without jeopardizing the natural values for which the area seeks to preserve." The impacts described in the EA are an unavoidable consequence of that activity. They will not jeopardize the resources and values of the Preserve, for the reasons explained in the EA and FONSI. NPS also has made substantial efforts to mitigate impacts and expects that impacts will be mitigated. NPS has identified numerous mitigation measures, but does not have regulatory jurisdiction to make all of them mandatory.</p>
3.	<p>This EA considers whether the Endeavor proposal is an appropriate use and if the proposal could result in unacceptable impacts. The Sierra Club is unable to find the separate analysis, assessment, and evaluation documentation of "unacceptable impacts", except for a brief description of "conclusory criteria" on pages 12 and 13 and pages 58 and 59, in 1.4 Unacceptable Impacts and 3.0 Affected Environment and Environmental Consequences" of the EA or in any other part of the EA. The public and decision-makers need this information clearly stated and transparently presented so that it can be reviewed, commented on, and understood in relation to the environmental impacts of the proposal.</p>	<p>The <i>Management Policies</i> provisions on unacceptable impacts are intended primarily to guide park managers in exercising their professional judgment, and are not intended as a substitute or supplement to the public disclosure requirements of NEPA.</p> <p><i>Management Policies</i> do not require preparation of a written determination regarding unacceptable impacts, unlike impairment determinations. Nonetheless, NPS often provides such analysis in its NEPA documents, as it has done here in the EA. Analysis of unacceptable impacts was conducted based on the criteria listed in pages 12 and 13, and is detailed in the <i>Affected Environment and Environmental Consequences</i> section of the EA.</p>
4.	<p>We find the analysis of cumulative impacts in the EA deficient, particularly on pages 17 through 42 and pages 58 through 83, 1.6 Issues and Impact Topics Evaluated; 1.7 Issues</p>	<p>On pages 59 through 60 of the EA, under the heading 'Cumulative Impacts,' the NPS details park developments and operations, adjacent</p>

	<p>and Impact Topics Eliminated from Further Analysis; 1.7.1 Geology and Soils in the Beaumont Unit; 1.7.2 Water Resources and Quality: Ground Water and Stream-flow characteristics, Floodplains and Wetlands in and outside the Beaumont Unit; 1.7.3 Vegetation in the Beaumont Unit; 1.7.4 Fish, Wildlife and Species of management Concern in and outside the Beaumont Unit; 1.7.4.1 Cultural Resources in and outside of the Beaumont Unit; 1.7.6 Air Quality in and outside of the Beaumont Unit; 1.7.7 Catastrophic Incidents, such as Well Blowouts, Well Fires or Major Spills; 1.7.8 Socioeconomics; 1.7.9 Environmental Justice; 1.7.10 Prime or Unique Farmland Soils in the Units; 1.7.11 Climate Change; 3.3 Impacts on natural Sound-scape in and Outside of the Beaumont Unit; 3.4 Impacts on Light-scape/Night Sky in and Outside of the Beaumont Unit; 3.5 Impact on Adjacent Landowners, Resources and Uses; and 3.6 Visitor Use and Experience in the Beaumont Unit.</p>	<p>land uses, and visitor uses and developments that provide a portion of the basis for analyzing cumulative effects in the EA. On page 59, the reader is directed to the detailed discussion of nonfederal oil and gas exploration and development in the <i>Socioeconomics</i> section of the EA as a basis for that portion of the cumulative effects scenario. Under each impact topic analyzed in the EA, the NPS indicated which of the possible sources of impacts are relevant to the analysis of cumulative effects for that topic, and provided a reasoned discussion of the context, duration and intensity of those effects.</p>
5.	<p>Page ii, Executive Summary, the EA states "The well would be sited approximately 1,300 feet northwest of the Unit boundary." In other places difference distances are used. For instance, on page 20, 1.7.1.1 Impacts from In-Park Operations, the distance "1,280 feet" is used; on page 21, 1.7.1.3 Impacts from contaminant Runoff the distance "over 1,200 feet" is used; on page 24, 1.7.3 Vegetation in the Beaumont Unit the distance "over 1,280 feet away" is used; on page 25, 1.7.4 Fish, Wildlife and Species of Management Concern in and outside the Beaumont Unit, the distance "in or within 1,200 feet" is used; on page 45, Well pad, the distance "approximately 1,300 feet northwest of the Unit boundary ... The well pad would extend to within approximately 1,150 feet of the Unit boundary" is used; on page 54, Table 2-4 summary of Actions, the distance "The well pad would extend within 1,150 feet of the Unit boundary" is used; on page 63, 3.3.3 Affected Environment, the distance "would be located 1,280 feet from the Unit boundary (at its closest proximity)" is used; and on page 76, 3.4.4.4 Impacts on Lightscapes/Night Sky in and outside the Beaumont Unit under Alternative B,</p>	<p>The well bore is located 1,280 feet from the Unit boundary, while the edge of the well pad will reach to within 1,150 feet of the Unit. The approximation of distance from the Unit boundary is appropriate in each context used. Furthermore Figure 2-1 "Regional/Vicinity Map" on page 44 clearly depicts the location of the well pad in relation to the Unit and includes a scale.</p>

	<p>Proposed Action, the distance is "is located over the distance (1,280 feet) between the pad site and the unit boundary" is used. The NPS should be consistent about how it describes and quantifies things in the EA because otherwise the public will be confused about what is being said.</p>	
6.	<p>Page 9, 1.2.3 NPS Nonfederal Oil and Gas Regulations, 36 CFR 98, the EA states "would not pose a substantial threat of damage." NPS should define what "substantial" is. This is one of the problems with NPS. It relies on "best professional judgment" and qualitative statements instead of quantitative statements.</p>	<p>The NPS defined the terms used in the EA with quantifiable boundaries where feasible and utilized qualitative bounds easily understood using standard dictionary definitions in other cases. The qualitative approach is accepted by the CEQ for use in environmental analyses in compliance with NEPA when a quantitative approach is not reasonable, feasible, or necessary. The NPS defined the thresholds of change for Soundscapes, Lightscapes, Wildlife, Adjacent Lands, and Visitor Use and Experience with qualitative boundaries using research data, relevant policies and legislation, and the best professional judgment from NPS staff. The data sources, methodology, and assumptions used in defining these qualitative boundaries are described in separate sections beginning on pages 66, 74, 77, and 81. These boundaries could not feasibly be defined quantitatively due to variable baseline values that are difficult and at times nearly impossible to measure.</p> <p>In its NEPA analyses, NPS brings together technical specialists who possess the knowledge and skills to assess the effects of the proposal in an interdisciplinary team, and it is their judgment that forms the basis of the analysis. This is consistent with CEQ's requirement of interdisciplinary preparation. The ultimate purpose of NEPA, as CEQ has noted, is not better documents, but better decisions.</p> <p>This is even truer of NPS determinations regarding impairment and unacceptable impacts, which (as explained in <i>Management Policies</i>) are expressly to be determined "in the</p>

		professional judgment of the responsible NPS manager."
7.	<p>Page 9, 1.2.4 Protecting Park Resources from External Activities, NPS states "The NPS may seek compensation ... if any activities outside park boundaries ... damage park resources" yet on page 27 NPS states that "In the rare event that spilled substances from a well blowout or major spill would be transported into the Preserve ... the NPS would seek damages and restoration costs". Also on page 27, Impacts from Connected Actions, NPS states "NPS could seek remedy both on the ground in the form of monetary compensation". Which is correct, would, may, or could? NPS needs to be consistent. The public and decision-makers need to know how protective NPS will be of BTNP and need to be able to review, comment on, and understand the environmental impacts of the proposal.</p>	<p>All three terms are correctly used in context. The NPS does have the ability to seek monetary or other compensation if activities outside park boundaries damage park resources, and may, or could, do so. If a well blowout, well fire, or a major spill caused considerable damage to the Preserve, the NPS would seek compensation and restoration costs.</p>
8.	<p>Page 9, 1.2.5 NPS Monitoring of Nonfederal Oil and Gas Operations, NPS states that it "must coordinate the timing of such access with the operator". NPS used to conduct surprise inspections on oil/gas activities outside BTNP that have the potential to affect BTNP and found problems with failure to implement mitigation measures. By not making mitigation measures part of NPS's conditions NPS ensures that it cannot enforce protective mitigation measures. By alerting the company NPS ensures that only the best the company can do will be shown and not how a company actually operates when it believes no one is watching.</p>	<p>As stated on page 9, "the NPS's ability to monitor and inspect directional drilling operations is limited to downhole operations within the park". Furthermore, where a state or federal agency, other than the NPS, has applied mitigation measures via their respective environmental compliance or permitting processes, that agency, not the NPS, has sole responsibility for monitoring and enforcing its mitigation measures.</p> <p>However, as a practical matter, monitoring of downhole activities inside the park can only be accomplished from the surface location outside the park, and therefore, the NPS may need to access the surface location. For directional drilling operations sited outside a park, the 9B regulations provide no authority to require an operator to grant the NPS access for the purpose of observing compliance with terms unrelated to the downhole activities inside the park. However, in the event the NPS becomes aware of a compliance concern related to another agency's jurisdiction, the NPS would alert that agency in a</p>

		constructive manner.
9.	<p>Page 10, 1.2.6 National Environmental Policy Act of 1969, the NPS must tell the public why "Similar actions were not identified for analysis in this EA". Were there no similar actions or did the NPS not search for them? What databases or how did the NPS look for "similar actions"? Are there no construction activities or similar uses in the area?</p>	<p>Please see pages 9 and 10 of the EA. Similar actions are, by definition, reasonably foreseeable or proposed agency actions that have similarities with the action under consideration, such as common timing or geography. The agency could then choose to examine the similar actions along with the action under consideration in the same NEPA document. By virtue of their positions, NPS members of the interdisciplinary team analyzing the effects of these nonfederal oil and gas proposals would be aware of any similar NPS actions under consideration. There were none.</p>
10.	<p>Page 11, 1.2.7 Approved Park Planning Documents, NPS does not state that the performance standards and mitigation measures in the Oil and Gas Management Plan (OGMP) for BTNP can be dropped or weakened and have been on a case-by-case basis. The public has no assurance that performance standards and mitigation measures in the OGMP will be implemented as stated in the OGMP. The NPS should be totally honest about the OGMP and not ignore its weaknesses by failing to tell the public.</p>	<p>The performance standards developed in the <i>Oil and Gas Management Plan</i> for the Preserve pertain to oil and gas operations. On page 7 of the EA, operations are defined as all functions, work, and activities that occur <u>within</u> a unit of the National Park System. Therefore, the potential impacts considered in the §9.32(e) exemption process relate only to effects on park resources from downhole activities occurring within the boundary of the park, not threats to park resources associated with the operation outside park boundaries. Downhole operations associated with this nonfederal oil and gas proposal have no effect on the resources and values of the Preserve. No mitigation is necessary, nor is any disclosure as described in the comment.</p> <p>Performance standards and mitigation measures for nonfederal oil and gas operations at the Preserve are applied on a case by case basis in accordance with the Preserve's <i>Oil and Gas Management Plan</i>, the NPS Nonfederal Oil and Gas Rights regulations, and a number of other laws, executive orders, regulations, and policies as described in the EA. The <i>Oil and Gas Management Plan</i> recognizes that there are no one size fits all solutions to protecting Preserve resources and values. If certain mitigation measures are not</p>

		required to protect Preserve resources and values, or should be modified, the <i>Oil and Gas Management Plan</i> allows for flexibility.
11.	<p>Page 14, 1.6 Issues and Impact Topics Evaluated, NPS states that Sierra Club scoping or comment letters “did not identify any alternatives for analysis that were not already listed in the public scoping brochure.” This is a statement that is not complete. The EA scoping letters and comment letters identified concerns about enforcement, compliance, and that NPS was violating the law with regard to NEPA and its own rules. This EA scoping and comment concerns led to a lawsuit which indeed resulted in a decision that NPS was violating the law. But during the scoping and comment periods NPS ignored the Sierra Club's concerns. There were other important issues brought up in the EA scoping and comment letters. For instance, the Sierra Club brought up the issue of including all cumulative environmental impacts, the failure of NPS to quantify environmental impacts, and as Judge Bates ruled the use of “conclusory statements” to analyze environmental impacts. NPS still has not addressed or addressed adequately in the previous EAs and in this EA these and other issues. It is not just alternatives for analysis that are important in a NEPA document. Other important things to bring up during scoping deal with issues and values and environmental impacts. The Sierra Club brought these up but NPS ignores our comments and what we said and is loath to be honest and report them to the public. NPS is short-changing its public participation and input responsibilities by denigrating public input comments and equating them just with alternatives. What did the public say? Summarize it so the public knows what was said during scoping.</p>	<p>See the Errata Sheet.</p> <p>During the public scoping for this project, the Sierra Club did include statements relating to the analysis of cumulative effects, and concerns related to enforcement of oil and gas operations and mitigation measures. However, as stated in the EA, the Sierra Club did not present any new alternatives for analysis that were not already listed in the scoping brochure.</p>
12.	<p>Page 15, 1.6 Issues and Impact Topics Evaluated, what is the difference between “negligible impacts” and “negligible levels”? NPS needs to define these terms so the public and decision-makers can review, comment on, and understand the proposal and what NPS can and cannot do.</p>	<p>These terms are defined in the EA, see response #6. On page 15 the term “negligible levels” refers to these defined impact levels (“impacts would not be expected to exceed negligible levels”).</p>

<p>13.</p>	<p>Page 18, 1.7 Issues and Impact Topics Eliminated from Further Analysis, the NPS states that impact topics are dismissed from further evaluation if “the likelihood of impacts are not reasonably expected; effects would not exceed minor levels; there is little controversy; that minor effects would result in a detectable change but the change would be “small and of little consequence”. However, NPS does not define what these “conclusory statements” mean.</p> <p>What does “reasonably expected” mean? What does “little controversy” mean, especially since NPS used this same phrase several years ago, got sued by the Sierra Club, and lost. Does not a lawsuit where you lose appear to indicate that more than “a little controversy” exists? What does “small and of little consequence” mean? How small is small? How much “little consequence” are we talking about? NPS falls into the same, failed, trap it got sued over. Why not level with the public and be transparent rather than fail to adequately inform the public what potential environmental impacts are?</p>	<p>To determine whether or not to evaluate impact topics in detail, the NPS applied the criteria listed on pages 12 and 13 of the EA. These criteria are unambiguous and are written in plain language that the general public can understand, following 40 CFR §1502.8 of the CEQ NEPA regulations. The words and phrases in question are intended to be understandable using standard dictionary definitions. In general, they are not technical terms that need further definition or clarification. To avoid confusion, the word “minor,” which is defined specifically under impact topics examined in detail in the Environmental Consequences section of the EA, is generally defined on pages 12 and 13.</p> <p>Under NEPA, “controversial” refers to circumstances where a substantial dispute exists as to the environmental consequences of the proposed action and does not refer to the existence of opposition to a proposed action, the effect of which is relatively undisputed (43 CFR 46.30). The mere fact that there has been litigation or that the Sierra Club opposes these activities does not constitute controversy under NEPA. The Court ruled against NPS not because it found the impacts were significant or controversial, but because NPS had explained them insufficiently to the public. NPS believes the environmental impacts for this proposal are well-understood and that there is no substantial factual dispute.</p>
<p>14.</p>	<p>Page 18, 1.7 Issues and Impact Topics Eliminated from Further Analysis, NPS states that “unacceptable impacts are impacts that individually or cumulatively would “impede the attainment of a park's desired future conditions” and “unreasonably interfere with park programs or activities”. Why don't moderate impacts “impede the attainment of a park's desired future conditions”? What does “unreasonably interfere with park programs or activities” mean?</p>	<p>Please see response 13. The words and phrases in question are intended to be understandable using standard dictionary definitions. They are not technical terms that need further definition or clarification.</p>

15.	<p>Probability equates to risk or hazard. What is the probability that is talked about? What does short or long-term mean? What does remote mean? What constitutes “ample time and space”? What does low potential mean? NPS does not say. The public and decision-makers need to know so they can review, comment on, and understand the proposal and what NPS can and cannot do.</p>	<p>Please see response 13. The words and phrases in question are intended to be understandable using standard dictionary definitions. They are not technical terms that need further definition or clarification.</p>
16.	<p>NPS keeps talking about “mitigation measures” but relies on those that are either voluntary or that other agencies are responsible for which means there is less assurance that they will be implemented and provided the protection that NPS assumes. What is this less assurance or probability of implementation or enforcement in comparison to NPS and what possible damage may occur because the mitigation measures are not NPS enforceable and NPS cannot conduct inspections to ensure that the mitigation measures are implemented and working correctly?</p>	<p>The NPS discloses in the EA which mitigation measures are voluntary, which are required by other agencies, and which are within the jurisdiction of the NPS. The justification for this comment comes straight out of the EA. There are two listed mitigation measures—no surface access to the Preserve, and directional drilling so as not to intercept usable quality groundwater within the Preserve—that are requirements of the NPS in the sense that they are necessary for the operators to qualify for exemptions with no (further) mitigation required by the NPS.</p>
17.	<p>Pages 17-42, 1.7 Issues and Impact Topics Eliminated From Further Analysis, under “Cumulative Impacts” for each topic that was dismissed there is little or no quantitative analysis of all past, present, and future foreseeable environmental actions and their cumulative impacts provided. How much hunting, recreational activities, routine park operations, etc. has occurred in the Beaumont Unit? The NPS needs to quantify as CEQ regulations require.</p>	<p>Visitor Use of the Unit is discussed in the EA in Section 3.6. By eliminating this topic, the NPS is focusing its analysis on issues that are truly relevant. 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 to the action in question, rather than amassing needless detail” (§1500.1(b)).</p>
18.	<p>Pages 32-39, 1.7.7 Catastrophic Incidents, such as Well Blowouts, Well Fires or Major Spills (All Wells) and 1.7.8 Socioeconomics, the Sierra Club disagrees with eliminating the issue of Catastrophic Incidents, such as Well Blowouts, Well Fires or Major Spills, from further analysis. While we appreciate that the NPS has made an effort to quantify the environmental effects of this issue the quantification does not lead to the</p>	<p>The NPS analyzed the potential for catastrophic events quantitatively, and reached the conclusion that this topic does not warrant detailed analysis in the EA based on the likelihood of those events affecting resources and values within the Preserve. The proximity to the Preserve of such events was not a feature of our analysis except in the general sense of examining data from</p>

	<p>conclusion that this issue should be eliminated from further analysis. NPS admits that in the RRC district, which includes BTNP, that blowouts and well control problems (14) and major oil spills have occurred (122) from 2006-2008; and blowouts or well control problems (1) and major oil spills have occurred (6) within Hardin County in 2006-2008 where the proposed well would be located. It is odd that when making an assessment of this on page 34, NPS only mentions two years, 2007 and 2008 in its data base and not the third year (2006) when 8 incidents of blowouts/well control problems occurred. Yet NPS still eliminates this issue from further analysis. Apparently NPS will only change its mind if we have a disaster with a major blowout, fire, or spill actually in a unit of BTNP.</p> <p>The Sierra Club does not agree that "the implementation of the proposed Action is not expected to add cumulative impacts to socioeconomic values in the project area." How can NPS state this when it admits that there have been 38 wells drilled and another 15 approved for BTNP and this does not include any private wells in the area? This makes no sense.</p>	<p>the seven county area that contains the Preserve. The NPS is not denying that such an event could occur within or near the Preserve, potentially affecting Preserve resources and values. However, such events are unlikely given the number of incidents versus the amount of drilling activity in the seven county area containing the Preserve, and are even more unlikely to affect the Preserve because of the small amount of drilling activity that actually is actually close enough to have any potential to affect the Preserve. By eliminating this topic, the NPS is focusing its analysis on issues that are truly relevant. 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 to the action in question, rather than amassing needless detail" (§1500.1(b)).</p>
19.	<p>In addition, NPS keeps talking about mitigation measures like it has control over them and will ensure that they are complied with. Only two of the 23 (8.7%) of the mitigation measures on pages 49-51, Table 2-2, are NPSs which means that 91.3% of the mitigation measures are not controlled or enforced by NPS.</p>	<p>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, and NPS is bound to follow its own regulations. Nonetheless, in the EA, the NPS discloses to the public potential impacts to park resources associated with operations occurring outside park boundaries and outside the Service's regulatory jurisdiction. The fact that NPS discloses and discusses these broader issues as part of the NEPA process does not alter the limited scope of the decision to be made under the regulations.</p> <p>The NPS works with operators to encourage them to adopt mitigation measures on their operations located outside park boundaries. Although the 9B regulatory scheme is limited,</p>

		<p>impacts associated with the proposed activity are described in the EA and analyzed; and they are also evaluated for their potential impacts under impairment requirements of the NPS Organic Act. The analysis in the EA was based on the mitigation measures described in the applications for exemption submitted by Endeavor.</p> <p>The NPS discloses in the EA which mitigation measures are voluntary, which are required by other agencies, and which are within the jurisdiction of the NPS. The justification for this comment comes straight out of the EA. There are two listed mitigation measures—no surface access to the Preserve, and directional drilling so as not to intercept usable quality groundwater within the Preserve—that are requirements of the NPS in the sense that they are necessary for the operators to qualify for exemptions with no (further) mitigation required by the NPS.</p>
20.	<p>Pages 40-42, 1.7.11 Climate Change, any discussion of climate change should include the Secretary of the Interior's two secretarial orders about climate change. The Sierra Club appreciates that the Secretary of the Interior, in Secretarial Order No. 3285 and 3289 has determined that climate change is a critical issue to focus on and deal with. NPS needs to deal with climate change on a more site specific manner. The NPS must address climate change in this EA. Climate change will alter-existing ecosystems and make it more difficult for plants and animals to adapt successfully to these changed ecosystems and for the NPS to manage the Beaumont Unit for the species, landscape, and ecosystems that these refuges were originally acquired for. NPS must address questions like:</p> <p>How will the Beaumont Unit be affected by climate change?</p> <p>What can be done to create more resilient and resistant habitats and ecosystems?</p>	<p>Climate change is a subject of concern for the NPS. However, as stated in the EA, climate change research is still largely lacking a quantifiable method for predicting its effects. Comments regarding the incorporation of climate change research into the resource management strategy of the Preserve would be appreciated during the General Management Plan public input process.</p> <p>The NPS does not consider the consumption of the natural gas that may be generated due to the drilling of this well to be a connected action for this project.</p>

	<p>What can NPS do to reduce CO2 or other greenhouse gas emissions within BTNP?</p> <p>What can be done to assist plants and animals so they can adapt to climate change?</p> <p>NPS should prepare and include in the EA a climate change ecological resilience and resistance plan. This plan would assess, analyze, evaluate, and prioritize the biological and ecological elements in the Beaumont Unit and the effects that climate change has had and will have on these elements. The plan would also assist plants, animals, and ecosystems in adapting to climate change and would require monitoring of changes and mitigation measure effectiveness. The plan would be based on:</p> <p>Protecting existing functioning ecosystems in the Beaumont Unit.</p> <p>Reducing stressors on ecosystems in the Beaumont Unit.</p> <p>Restoring natural functioning ecological processes in the Beaumont Unit.</p> <p>Using natural recovery in the Beaumont Unit, in most instances.</p> <p>Acquiring buffers and corridors to expand and ensure connectivity of ecosystems in the Beaumont Unit.</p> <p>Intervening to manipulate (manage) ecosystems in the Beaumont Unit only as a last resort.</p> <p>NPS should explain the contradiction of allowing oil/gas drilling which if successful will allow for the burning of more fossil fuels that generate CO2 and are causing climate change. Is this something that NPS really supports and should allow?</p>	
21.	Page 42, 1.7.11 Climate Change, there is a reference to Section 1.4.6. There is no such section in this EA.	On page 42, it should read "Anticipated emissions from oil and gas operations as described above Section 1.7.6 are anticipated to be low."
22.	Page 45, 2.2.1 Project Siting, Well pad, the	As defined by the U.S. Army Corps of

	<p>EA states "Construction of the well pad is not anticipated to require fill into waters of the U.S. and therefore, would not require a Section 404 permit from the U.S. Army Corps of Engineers." The Field Data Sheets, Appendix A, document a culvert and a swale that goes through the eastern one-third of the well pad site as does the wetland delineation report at page 9. This report, on page 10, states "However, through the use of NWI and topographic mapping, it was determined that the wetland south of the Site is adjacent to the LNVA canal. Accordingly, a minor, indirect connection could exist between the Site swale and the LNVA canal, but only immediately following rain events." In addition, the Figure 3-4, Floodplain Map, shows that part of the well pad site is in the 100 year floodplain. Finally there is a mixed hardwood cypress swamp forest depicted on one of the Water-body data sheets. But there are no mitigation measures to reduce impacts on the swale or the 100 year floodplain. How in fact will fill not be needed for the swale that crosses the well pad site? It would seem an Army Corps of Engineers visit would result in a final determination instead of assuming that there is not impact to "waters of the United States." The Sierra club requests that NPS asked the Corps to visit the site to determine if the swale is a "waters of the United States."</p>	<p>Engineers, "swales or erosional features (e.g., gullies, small washes characterized by low volume, infrequent, or short duration flow) are generally not waters of the United States because they are not tributaries or they do not have a significant nexus to downstream traditional navigable waters." Using professional judgment and experience, in coordination with informal consultations with the U.S. Army Corps of Engineers, it was determined that the swale feature on the site would not be considered jurisdictional. A jurisdictional determination request from the USACE has already been filed. Preparation of the wellpad site outside of jurisdictional features is discussed in the EA in Section 2.2. Furthermore, sediment and erosion control measures suggested by Endeavor in their Stormwater Pollution Prevention Plan (SWPPP) depict appropriate measures to allow drainage from uplands through the culvert to reach unimpeded to potential wetlands south of the Project site.</p>
23.	<p>Page 47, 2.2.3 Production Facilities, the Sierra Club urges the NPS request that a three foot firewall be installed around the tank battery to better ensure full protection of the area from a spill. In addition, on page 49, 2.2.5 Mitigation Measures, Table 2-2, 9, the Sierra Club is very concerned that only a one-foot high ring levee will be built around the well pad. A three foot ring levee would be much more protective if a spill occurred during drilling.</p> <p>Again, the Sierra Club mentions that almost all of the mitigation measures (over 91%) are not required by NPS and either are voluntary and therefore not required by the operator and cannot be enforced or are required by other agencies which NPS must hope will</p>	<p>The tank battery would have an earthen fire wall (covered with rock to reduce erosion) surrounding the feature that provides secondary containment with a capacity of 1.5 times the capacity of the single largest tank. The approximate height of the firewall would be two feet, as depicted in Figure 2-2 on page 46. This firewall will be constructed in accordance with Endeavor's SPCC Plan and is deemed to be sufficient in protecting the project area.</p>

	<p>enforce their required mitigation measures. As NPS well knows many other agencies are deficient in sufficient personnel to conduct the inspections that should be done to ensure that compliance occurs.</p>	
24.	<p>Pages 53-57, 2.6 Summary of Alternatives, Table 2-3 Extent that Each Alternative Meets objectives and Table 2-5 Summary of Impacts, this section of the EA needs to be revised with a scenario that acknowledges that many of the mitigation measures-are voluntary and therefore no assurance 'of their implementation can be assured. What is the increased risk of such a scenario leading to environmental problems or non-compliance? Many other of the mitigation measures are required by other agencies whose enforcement is not assured. What is the increased risk of such a scenario leading to environmental problems or non-compliance? In. addition, there is no quantification of environmental impacts in the summary of impacts.</p>	<p>See response # 19.</p>
25.	<p>Page 62, 3.3.3 Affected Environment, NPS mentions or does not mention commercial timberlands, residences, commercial development, roads, waterways, air corridors, but never shows where these are visibly, via maps, so the public and decision-makers know where cumulative impacted areas are.</p>	<p>Figures using topographic map base were provided as part of the EA, which depict these features. Further, figures using aerial photography base were included in several of the attachments to the EA.</p>
26.	<p>The Sierra Club requests definitions for several words and phrases used in the EA.</p> <p>Page 14, 1.5 Appropriate Use, what does "significant, temporary," and longterm impairment" mean? The public and decision-makers need this information so they can review, comment on, and understand the proposal and what NPS can and cannot do.</p> <p>Page 18, 1.7 Issues and Impact Topics Eliminated From Further Analysis, what does "unreasonably interfere" mean? This term needs to be defined so the public and decision-makers can review, comment on, and understand the proposal and what NPS can and cannot do.</p>	<p>These words and phrases are unambiguous and are written in plain language that the general public can understand, following 40 CFR § 1502.8 of the CEQ NEPA regulations. The words and phrases in question are intended to be understandable using standard dictionary definitions. They are not technical terms that need further definition or clarification. An EA is to be a "concise public document" that "briefly provide[s] sufficient evidence and analysis." 40 CFR § 1508.9. To provide separate technical definitions for all of the dozens of terms identified in the comment, rather than using plain language, would render an already</p>

	<p>Pages 22-23, 1.7.2 Water Resources and Quality: Ground water and Stream-flow Characteristics, Floodplains and Wetlands in and outside the Beaumont Unit, what does "very low", "negligible", "expected to have no effect", "moderate impacts", and "negligible adverse impacts" mean?</p> <p>Page 74, 3.4.4.3 Impacts on Light-scapes/Night Sky in and Outside the Beaumont Unit Under Alternative A, No Action, what does "vary considerably" mean? How much have "numerous light sources" increased the background sky-glow levels in BTNP?</p> <p>Page 82, What does "unlikely that many visitors would be in the vicinity" mean?</p>	<p>long document even longer, and would run contrary to these goals. Please see response #13.</p> <p>The NPS did in fact provide explanations for its conclusions in the EA in accordance with the Court's decision. For example, before drawing any conclusions in the environmental consequences section of the EA, the NPS detailed the sources of possible impacts for each phase of operations, discussed the likely effects of each impact on the resources and values of the Preserve, and provided reasoning upon which to base its conclusions regarding the context, duration, timing, and intensity of the impacts.</p>
27.	<p>The Sierra Club requests definitions for several words and phrases used in the EA that are defined in section 3.0.</p> <p>Pages 20-21, 1.7.1 Geology and Soils in the Beaumont Unit, what does "negligible", "probability of release", "no noticeable subsidence", "would be remote", "low potential", "ample time and space", and "short- or long-term" mean? Some of these words are defined under 3.0 Affected Environment and Environmental Consequences but not under 1.7 Issues and Impact Topics Eliminated From Further Analysis. Do these words or phrases mean the same under both sections? NPS does not say.</p> <p>Pages 24-25, 1.7.3 Vegetation in the Beaumont Unit, what do "negligible levels", "low potential", "ample time and space", "negligible", "negligible adverse impacts", and "low chance" mean? Do these words or phrases mean the same under this section and section 3.0? NPS does not say. The public and decision makers need to know so they can review, comment on, and understand the proposal and what NPS can and cannot do.</p> <p>Pages 25-27, 1.7.4 Fish, Wildlife and Species of Management Concern in and outside the Beaumont Unit, what do "negligible", "unlikely", "moderate adverse impacts", and "negligible adverse impact" mean? Do these</p>	<p>Please see responses # 13 and 26.</p>

	<p>words or phrases mean the same under this section and section 3.0? NPS does not say. The public and decision-makers need to know so they can review, comment on, and understand the proposal and what NPS can and cannot do.</p> <p>What does "short-lived", "not a reasonable expectation", "risk of damage", "low are not a reasonable expectation", reasonable expectation", "highly speculative", "very low rates", "negligible effects", "likelihood ... is very low", "negligible impacts", "small number of people", "Likelihood ... is relatively low", "would not be potential for a catastrophic incident", "reasonable foreseeable", "small amount", and "small effect" mean? Do these words or phrases mean the same under this section and section 3.0? NPS does not say. The public and decision-makers need to know so they can review, comment on, and understand the proposal and what NPS can and cannot do.</p>	
28.	<p>Pages 66-71, 3.3.4.2 Methodology and Assumption, 3.3 Impacts on Natural Sound-scape in and outside of the Beaumont Unit, what do "very infrequent", "infrequent noise", Heard frequently", "heard occasionally", "occasionally be present", "still be heard occasionally", "could be extensive", "would likely be successful", "persistently dominate", "extensive mitigation measures", "success would not be guaranteed" mean?</p> <p>Pages 71-77, 3.4.4.2 Methodology and Assumption, 3.4 Impacts on Light-scape/Night Sky in and Outside of the Beaumont Unit, what do "range of existing variability", "would be noticeable", "may be detectable", "largely similar", "simple and successful", "modified over existing conditions", "are obvious", "extend perceptibly overhead", "extensive and likely successful", "clearly altered", "conspicuous overhead", "noticeably brighter", "Extensive mitigation measures", and "success would not be guaranteed" mean?</p> <p>Pages 77 -SO, 3.5.3.2 Methodology and</p>	Please see responses # 13, 26, and 27.

	<p>Assumption, 3.5 Impacts on Adjacent Landowners, Resources and Uses, what do "slight", "not be of any measurable or perceptible consequence", "limited localized change", "simple and successful", "would be consequential", "relatively local", "would likely succeed", "substantial alternation", "regional scale", "Extensive mitigation measures", and "success would not be guaranteed" mean? Regional scope is not defined on page 55.</p> <p>Page 80-83, 3.6.3.2 Methodology and Assumptions, 3.6 Visitor Use and Experience in the Beaumont Unit, what do "no expectation for endangering", "would be slight", "few visitors" "little expectation for endangering", "readily apparent", Many visitors" Likely express an opinion", "Extensive mitigation" "readily apparent", "have important consequences", "Most visitors" "would likely express a strong opinion", and "extensive mitigating measures" mean?</p> <p>Each of these non-quantitative phrases causes the threshold words of negligible, minor, moderate, and major to be even less quantitative and understood. Where is the analysis, assessment, and evaluation that shows what these words and phrases mean so the public and decision-makers can review, comment on, and understand the proposal and how it is evaluated.</p>	
29.	<p>NPS's continued failure to use "conclusory" statement is in direct violation of Judge Bates decision. See the specific quotations of Judge Bates' decision in this comment letter. Certainly the threshold words of negligible, minor, moderate, and major could be differentiated with a decibel range to quantify environmental impacts on the natural soundscape. Another way to quantify would be to show zones of sound in decibel ranges and how far they extend from the well pad location. On page 70, the term localized is used. On page 58 the term localized refers to the footprint of the well pad and immediately adjacent lands. What does that mean? Where do immediately adjacent lands stop? Where is the</p>	<p>Please see responses #13, 26-28. The NPS did in fact provide explanations for its conclusions in the EA in accordance with the Court's decision. For example, before drawing any conclusions in the environmental consequences section of the EA, the NPS detailed the sources of possible impacts for each phase of operations, discussed the likely effects of each impact on the resources and values of the Preserve, and provided reasoning upon which to base its conclusions regarding the context, duration, timing, and intensity of the impacts. As stated in Response #8 and on page 9 of the EA, "the NPS's ability to monitor</p>

	<p>quantification so the public knows? Again “conclusory” language is used which does not tell the public anything that helps it assess the proposal. So unless NPS states what “immediately adjacent lands are” then it cannot say that this proposal has “localized” impacts on the sound-scape.</p> <p>NPS keeps claiming that “mitigation measures” will protect BTNP and the environment during the development of wells but never mentions or analyzes that NPS has almost no control over enforcement and compliance for these “mitigation measures” because they are either voluntary or enforced by other agencies.</p> <p>NPS is doing exactly what Judge Bates said not to do, make “conclusory comments” and not quantify environmental impacts. The public and decision-makers have a right to know this information so they can review, comment on, and understand the environmental impacts of this proposal.</p>	<p>and inspect directional drilling operations is limited to downhole operations within the park”. Furthermore, where a state or federal agency, other than the NPS, has applied mitigation measures via their respective environmental compliance or permitting processes, that agency, not the NPS, has sole responsibility for monitoring and enforcing its mitigation measures.</p>
30.	<p>Pages 75-77, 3.4.4.4 Impacts on Light-scapes/Night Sky in and outside the Beaumont Unit Under Alternative B, Proposed Action, what does “minor artificial lighting” mean? How much light is caused by existing sources and how much has then reduced the light-scape/night sky? Without this information and how the proposal will further impact the light-scape/night sky the public is not informed so it can review, comment on, and understand the environmental impacts of the proposal. How far out (in feet) do negligible, minor, moderate, and major environmental impacts to the light-scape/night sky extend due to this proposal? How much have cumulative impacts effected the light-scape/night sky due to past, present, and future foreseeable actions and their cumulative impacts?</p>	<p>The NPS defined the terms used in the EA with quantifiable boundaries where feasible and utilized qualitative bounds easily understood using standard dictionary definitions in other cases. The qualitative approach is accepted by the CEQ for use in environmental analyses in compliance with NEPA when a quantitative approach is not reasonable, feasible, or necessary. The NPS defined the thresholds of change for Lightscapes with qualitative boundaries using research data, relevant policies and legislation, and the best professional judgment from NPS staff. The data sources, methodology, and assumptions used in defining these qualitative boundaries are described in separate sections beginning on pages 66, 74, 77, and 81. These boundaries could not feasibly be defined quantitatively due to variable baseline values that are difficult and at times nearly impossible to measure.</p> <p>In its NEPA analyses, NPS brings together technical specialists who</p>

		<p>possess the knowledge and skills to assess the effects of the proposal in an interdisciplinary team, and it is their judgment that forms the basis of the analysis. This is consistent with CEQ's requirement of interdisciplinary preparation. The ultimate purpose of NEPA, as CEQ has noted, is not better documents, but better decisions.</p> <p>This is even truer of NPS determinations regarding impairment and unacceptable impacts, which (as explained in <i>Management Policies</i>) are expressly to be determined "in the professional judgment of the responsible NPS manager."</p>
31.	<p>Page 82, incorrect headings are used for 3.6.3.3 and 3.6.3.4. The headings provided are Impacts on Adjacent Landowners, Resources and Uses under Alternative A, No Action and Impacts on Adjacent Landowners, Resources and Uses under Alternative B, Proposed Action when the headings should have been Impacts on Visitor Use and Experience under Alternative A, No Action and Impacts on Visitor use and Experience under Alternative B, Proposed Action.</p>	<p>See Errata Sheet for heading corrections.</p>
32.	<p>Page 83, Section 1.4.1 is mentioned. There is no Section 1.4.1 in this EA.</p>	<p>Section references should refer to Section 1.7.1 instead of 1.4.1. See Errata Sheet.</p>
33.	<p>Page 83, NPS states "Therefore, based on the lack of visitation in this area, the lack of complaints relating to oils and gas operations ... are expected to be negligible." This is the second time that NPS has made such a statement in an EA. For instance, in the Sierra Club's March 28, 2008 comment letter about the Environmental Assessment (EA) for Comstock Oil and Gas, Inc. Proposal to Drill and Produce the Comstock Black Stone B1 and Collins #3 Wells from Surface locations Outside the Big Sandy Creek Unit, BTNP, Polk County, Texas and Union Gas Operating Company Proposal to Directionally Drill and Produce the BP Rafferty A-455 #1, 2, and 3 Wells from Locations Outside the Neches Bottom and Jack Gore Baygall Unit, BTNP, Hardin County, page 16, comment 22, the Sierra Club states "Pages 41 through 42, 1.4.12 Visitor Use and Experience in the Big</p>	<p>The NPS considers geophysical, or seismic, exploration <i>oil and gas exploration</i> as opposed to <i>oil and gas development</i>. However, please see the Errata Sheet.</p> <p>The NPS was as surprised as the Sierra Club when notified that Kerr McGee Oil &amp; Gas Onshore was responsible for the use of vibroseis equipment (thumper trucks) on Little Rock Road within the Preserve in 2006. The NPS appreciates that the Big Thicket Association and the Sierra Club were cognizant of the difference between the Kerr McGee operations authorized by the NPS at the time and the activity observed. We also appreciate that these groups were willing and able to bring this issue to our attention in a</p>

<p>Sandy Creek and Neches Bottom and Jack Gore Baygall Units (all Wells), NPS states "There have been no recent written or verbal complaints from visitors relating to oil and gas development in the Preserve." This is an untrue statement. Enclosed with these comments are copies of two letters from the Houston Regional Group and Lone Star Chapter of the Sierra Club that complain about oil/gas activities. One letter is dated December 20, 2006, and complains about the use of a thumper truck for seismic activities and not being notified about its use. The use of the thumper truck was a change from the EA for Kerr McGee Oil and Gas Onshore that the Sierra Club commented on. The second letter is dated October 30, 2007 and complained about the presence of seismic lines and receiving equipment that crossed or were placed right next to the Kirby Nature Trail and Turkey Creek Trail. In addition, the Sierra Club called Mr. Dusty Pate, as the letter states, on October 29, 2007, and complained about this same problem. Apparently NPS is now suggesting to the public that unless they complain about oil and gas activities then the public is not affected by them. Such an attitude is strictly ridiculous. The Sierra Club has not complained until now about a third problem. In 2006 and 2007, during hikes on the Woodlands Trail in the Big Sandy Creek Unit, we were disturbed by noise coming from the west of the trail, about one-half mile north of the parking lot. We walked in the direction of the noise and came to the boundary of the Big Sandy Creek Unit and a barbed wire fence. We could see across an open field and on the far side of that field was oil and gas equipment, including storage tanks. The noise was made by a pump or some other piece of equipment at that location. The noise from that equipment disturbed the solitude and quiet that the Sierra Club had come to the Big Sandy Creek Unit to enjoy. We should have reported this problem at the time we heard it but do so now so the NPS understands that noise from outside BTNP, from oil and gas activities, has disturbed people enjoying solitude and quiet inside BTNP. "The Sierra Club brought to the NPS's attention that the statement in the</p>	<p>timely manner. The use of vibroseis equipment had not been authorized at the time of the Sierra Club's complaint as indicated in the comment. The NPS requested that Kerr McGee cease the activity immediately, which it did. The use of vibroseis equipment by Kerr McGee in the area was subsequently allowed by the NPS under the terms of a permit.</p> <p>Furthermore, although we appreciate the revelation of the Big Sandy Creek Unit incident now, without notification of an issue within the Preserve regarding oil and gas, the NPS cannot use the complaint in its NEPA documentation or decision making processes.</p> <p>The NPS has provided a full analysis of the effects of both sound and light production on visitors within the Beaumont Unit within the EA.</p>
--	---

	<p>Comstock EA statement was incorrect about public complaints about oil/gas activities in BTNP but here it is made again. The Sierra Club can only conclude that NPS must be attempting to hide the fact that the public has complained about oil/gas activities in BTNP. First, as NPS well knows, it lost a lawsuit regarding oil/gas activities in BTNP when Judge Bates ruled in favor of the Sierra Club that the NEPA and impairment analysis had been violated due to the use of "conclusory" statements used to describe environmental impact thresholds. This comment letter quotes from Judge Bates' decision and NPS is in possession of his decision. Second, the Sierra Club submits a copy of a complaint letter we sent to Superintendent Todd Brindle of BTNP on December 20, 2006 about the use of a thumper truck on Little Rocky Church Road in the Lance Rosier Unit. Third, the Sierra Club submits a copy of a complaint letter we sent to Superintendent Todd Brindle of BTNP on October 20, 2007 about the placement of geophones and other devices in the Turkey Creek Unit on or just off of (in sight of) the hiking trails in that unit. Also enclosed is an article that was published in the Houston Sierra Club's Bayou Banner about this incident. Fourth, the Sierra Club submits a copy of a complaint letter' we sent to Superintendent Todd Brindle of BTNP on April 20, 2007 about the actions of Krescent Energy Tyler Tyler during its 3-D seismic activities in BTNP. Fifth, the Sierra Club submits a copy of a letter we sent to Superintendent Art Hutchison of BTNP on February 17, 2004 about the proposal to allow Davis Brothers to drill nine wells. In that letter we quote from NPS documents that show that Davis Brothers was ignoring mitigation measures and agreed specifications for its oil/gas drilling including expanding its well pad site size without approval. Copies of all of these documents are included with this comment letter. NPS needs to withdraw the statement mentioned above and ensure that it does not make this statement again.</p>	
34.	Photographic Log, Appendix B, pages 1 and 4, show a house near the proposed well site.	The performance standards developed in the <i>Oil and Gas Management Plan</i>

<p>What specifically will be the environmental impacts (noise, light, visual, etc.) on this residence? NPS never quantifies these impacts for a residence that is probably 300-500 feet away. How will this potentially most impacted residence be affected by the proposal? Under NEPA this must be revealed but NPS does not do this.</p>	<p>for the Preserve pertain to oil and gas operations. On page 8 of the EA, operations are defined as all functions, work, and activities that occur <u>within</u> a unit of the National Park System. Therefore, the potential impacts considered in the §9.32(e) exemption process relate only to effects on park resources from downhole activities occurring within the boundary of the park, not with the operation outside park boundaries.</p> <p>Moreover, the buildings shown in the photographic log are located near an existing, once active well pad site. Any impacts associated with the proposed project are not anticipated to be new or unique to this proposal as the site has previously been actively drilled.</p>
---	---