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Record of Decision for Surface Management of Gas Leasing and Development

Jicarilla Ranger District, Carson National
Forest, Rio Arriba County, New Mexico

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Record of Decision

for

Surface Management of Gas Leasing and Development

**Jicarilla Ranger District
Carson National Forest**

Rio Arriba County, New Mexico

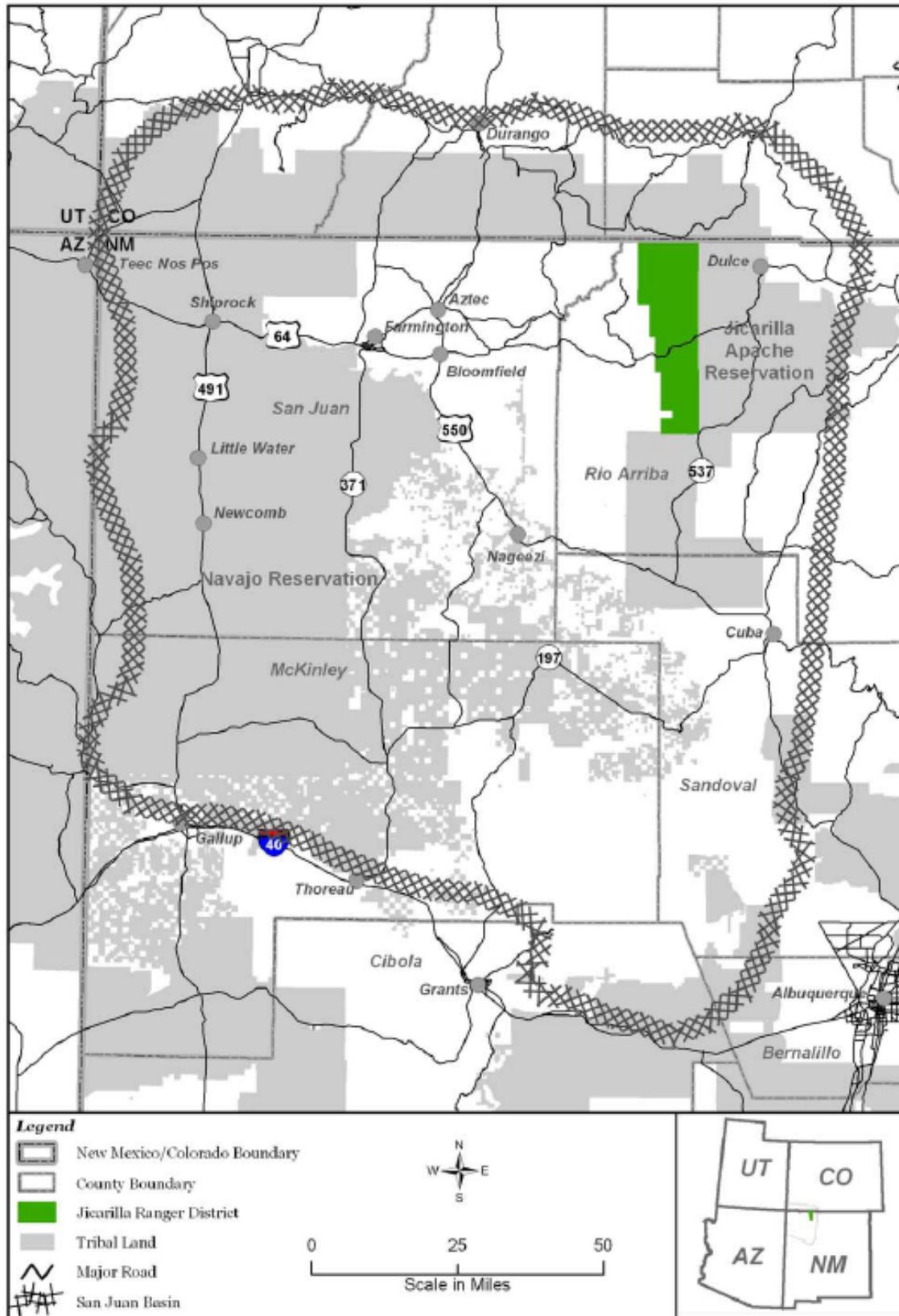


Figure 1. Location of Jicarilla Ranger District in the San Juan Basin

Record of Decision

The United States Department of Agriculture (USDA), Forest Service has prepared this record of decision (ROD) and the associated “Final Environmental Impact Statement for Surface Management of Gas Leasing and Development, Jicarilla Ranger District, Carson National Forest” (FEIS) in compliance with the National Environmental Policy Act (NEPA, 40 CFR 1500-1508) and other relevant Federal and State laws and regulations. The interdisciplinary analysis is documented in the project record. The FEIS also meets the intent of section 390(b)(3) of the Energy Policy Act of 2005 (42 U.S.C. 15801) and Forest Service regulations at 36 CFR 228.102((c)(4)) by analyzing drilling and associated actions as reasonably foreseeable activities within the San Juan Basin on the Jicarilla Ranger District. The analysis, resulting in this decision, considered the best available science, which is documented in the project record.

This decision applies to the Jicarilla Ranger District (district), which encompasses more than 153,000 acres and is a part of the Carson National Forest. The district is located in the northwest portion of New Mexico, within the San Juan Basin, about 50 miles east of Farmington (figure 1). Exploration for oil and gas began in the San Juan Basin during the 1940s and 1950s. Subsequently a highly successful natural gas industry developed. Today, natural gas production is the prevalent use of the Jicarilla Ranger District and is approximately 4 percent of what comes from the San Juan Basin in New Mexico. Except for the withdrawal of 640 acres,¹ the entire Jicarilla Ranger District is legally available for leasing. Approximately 148,000 acres (97%) of the district are currently leased and most are held by production.²

The 1986 “Carson National Forest Land and Resource Management Plan,” as amended (referred to as the forest plan), sets forth broad, programmatic management direction for the Carson National Forest. Where appropriate, this decision tiers to the forest plan FEIS and record of decision (1986 a & b). This decision is also consistent with applicable Carson forest plan management direction (goals, standards and guidelines), and also adds new management direction to the forest plan through a programmatic plan amendment (36 CFR 219.14 (b)(2)(2008)).³

Decisions and Rationale for the Decisions

I have selected alternative B described and analyzed in the FEIS, with a few modifications related to forest plan direction. This decision includes a leasing decision for specific lands (36 CFR 228.102) currently unleased on the Jicarilla Ranger District and any leases that expire or are relinquished in the future, subject to appropriate stipulations and management directives. This decision also incorporates additional management direction for the Jicarilla Ranger District in the Carson forest plan through a non-significant amendment.⁴ Details of this decision and my rationale are described in the following sections.

¹ This area, known as “Gas Buggy,” is where the experimental use of a nuclear explosion to fracture a gas well was conducted in 1968. The Atomic Energy Commission (now known as the Department of Energy) withdrew the area from leasing through Public Land Order 4232 just prior to detonation.

² A lessee can hold a lease up to 10 years before developing it. “Held by production” means a leasehold has producing wells on it. Most of the leases on the Jicarilla Ranger District have producing wells already on them; therefore, they are “held by production” and are unlikely to be available in the future.

³ This decision amends the Carson forest plan under the provisions of the 1982 regulations (219.10(f)(1982)). The 2008 planning rule (36 CFR 219(b)(2)) states, “During the transition period, plan amendments may continue using the provisions of the planning regulation in effect before November 9, 2000...”

⁴ Documentation as to why this decision includes a non-significant amendment can be found in an appendix of the FEIS.

Leasing Decision

I am making a specific Forest Service decision to authorize the Bureau of Land Management (BLM) to lease approximately 5,000⁵ acres of currently unleased National Forest System lands on the Jicarilla Ranger District (figures 2 and 3 of this ROD), with applicable stipulations. As leases expire or are relinquished, they shall be made available for further leasing, with applicable stipulations using the criteria described below. Any future leasing will be subject to a NEPA sufficiency review conducted at the time the areas become available and an expression of interest is received for which the Forest Service would provide consent to the BLM for leasing. If NEPA has not been adequately addressed, or if there is significant new information or circumstances as defined by 40 CFR 1502.9 requiring further environmental analysis, additional environmental analysis shall be completed before a leasing decision for specific lands is made. Although this ROD covers all leased and unleased Federal minerals on the Jicarilla Ranger District, it does not impose new or more restrictive stipulations on existing leases.

My leasing decision incorporates the lease terms and stipulations determined necessary and justifiable to mitigate effects to surface resources. This decision and the lease terms and stipulations are based on analysis documented in the “FEIS for Surface Management of Gas Leasing and Development, Jicarilla Ranger District, Carson National Forest” and do not affect existing leases. No surface occupancy or controlled surface use stipulations are imposed where resource protection or mitigation needs are greater than that provided by standard lease stipulations. As mentioned earlier, my decision also makes future leasing decisions throughout the district. As leases expire or are relinquished, the areas will be authorized for future leasing using the stipulation criteria set forth in this ROD. All waivers, exceptions, and modifications of stipulations will require a 30-day public notice period per 43 CFR 3101.1-4 and 36 CFR 228.104, and will be subject to an appropriate level of environmental analysis. Any exceptions to stipulations will be considered on a case-by-case basis.

Where the surface is administered by the Forest Service and the mineral estate is also federally owned, the Forest Service and BLM share the responsibility for enforcing mineral leasing policies and regulations. Forest Service regulations under 36 CFR 228.102(e) allow the Agency to authorize the BLM to lease individual, specified areas of land administratively available for lease and include the stipulations determined to be necessary.

Stipulation Criteria for New Leases

The Jicarilla Ranger District is open to development subject to the terms and conditions of the standard oil and gas lease form (including an explanation of the typical standards and objectives to be enforced under the standard lease terms), with the following exceptions:

No Surface Occupancy (NSO) Stipulation

Leasing with a no surface occupancy stipulation makes energy resources available for companies willing to employ unconventional drilling technology. Extraction of these energy resources without roads or well pads within the areas listed below allows the Forest Service to pursue the

⁵ Some of unleased parcels described and evaluated in the draft environmental impact statement (DEIS) were found to be incorrect. The FEIS includes changes made to the size and location of currently unleased parcels for the Jicarilla Ranger District.

management objectives of protecting undeveloped characteristics, cultural resources, wildlife habitat, and seclusion. On the Jicarilla Ranger District, a no surface occupancy stipulation will be applied to new leases in:

- Bancos, La Jara, and Fierro Canyons
- Valencia Canyon beyond 300 feet from existing roads
- Mexican spotted owl nesting habitat⁶

Controlled Surface Use (CSU) Stipulation

Controlled surface use will be applied to new leases in order to minimize the potential for excessive erosion and loss of soil productivity on the Jicarilla Ranger District. With the exception of areas where an NSO stipulation is applied, new leases on the rest of the district are open to development subject to the following constraints:

- No well pad construction on slopes greater than 20 percent, with cuts over 15 feet in depth
- No roads on side slopes greater than 40 percent

Timing Restriction

The Jicarilla Ranger District is known for its deer and elk herds that winter in the area. The following timing restriction applies to all new leases and will minimize disturbance to wildlife during the winter.

- New drilling activity or completion (e.g., construction, drilling, completions, swabbing, pump changes, tubing changes, replacing production equipment, or any other maintenance activity that requires heavy equipment) is limited to April 1 through October 31. This limitation does not apply to maintenance and operation of producing wells.

Cultural Resource Lease Notice

The district is also recognized for its high density of archeological resources. The special lease notice for cultural resources will ensure any archeological sites or traditional cultural properties found on a new lease will be protected to the extent possible. In compliance with the “Programmatic Agreement Among the United States Department of Agriculture, Forest Service, Carson National Forest and the New Mexico State Historic Preservation Officer Regarding the Environmental Impact Statement for Surface Management of Gas Leasing and Development on the Jicarilla Ranger District, New Mexico,” (07/24/2008) the following special cultural resource lease notice will be included in all future lease packages prior to sale:

All development activities proposed under the authority of this lease are subject to compliance with Section 106 of the National Historic Preservation Act and Executive Order 13007. The lease area may contain historic properties,

⁶ Applying the NSO stipulation to Mexican spotted owl (MSO) habitat was added to the FEIS in response to the recommendation from the U.S. Fish and Wildlife Service (FWS) during informal section 7 consultation. As a result of formal consultation, the FWS concurred with the findings of the biological assessment, which included no surface occupancy in MSO nesting habitat on any of the unleased areas.

traditional cultural properties (TCP), and/or sacred sites currently unknown to the Forest Service that were not identified in the Jicarilla EIS for Surface Management of Gas Leasing and Development on the Jicarilla Ranger District or during the lease parcel review process. Depending on the nature of the lease developments and activities being proposed, the Forest Service (FS) will not approve any activities as part of future lease operations that have the potential to affect TCPs and historic properties until it completes applicable requirements of the NHPA, including any required procedure for notification and consultation with appropriate Indian tribe(s) and/or the SHPO. Mitigation measures may be required to avoid, minimize or mitigate adverse effects to historic properties and TCPs, the costs of which will be borne by the lessee. The FS may require modifications to surface use operating plans or disapprove proposed exploration or development activities that are likely to adversely affect historic properties, TCPs or sacred sites for which no mitigation measures are possible. This could result in extended timeframes for processing authorizations for development activities, as well as changes in the ways in which developments are implemented.

Rationale for the Leasing Decision

I selected the leasing decision under alternative B because it best meets the purpose and need for expediting the leasing process to help meet the public's need for natural gas, while managing for soil productivity and the distinctive characteristics of the Jicarilla Ranger District—especially Mexican spotted owl nesting habitat, cultural resources, wintering big game, and the undeveloped characteristics of Bancos, La Jara, Fierro, and Valencia Canyons. My decision also conforms to the requirements of: (1) the Energy Policy Act of 2005 (EPAAct, 42 U.S.C. 15801) to facilitate orderly development and timely processing of gas lease applications without undue constraints; (2) Forest Service regulations at 36 CFR 228.102 regarding forest plan leasing analysis, decisions, and analysis of reasonably foreseeable gas leasing impacts; and (3) Forest Service regulations (36 CFR 228.108(a)) intended to minimize impacts to surface resources and uses.

During scoping and the release of the draft environmental impact statement (DEIS), a number of people expressed concern over leasing the remaining unleased areas on the Jicarilla Ranger District. Commenters wanted to see these areas protected for wildlife, wild and scenic river eligibility, archeological resources, and recreational interests by not leasing them. Alternative C was developed to address this issue. Its impacts of not authorizing unleased areas for lease were compared to those of alternative B. Even though this decision allows gas development in these areas, it acknowledges the public's concerns. Nearly 50 percent of the 4,992 unleased acres are subject to no surface occupancy stipulations. Another 18 percent of the unleased acres will include constraints on steep slopes. All new leases will include a seasonal timing restriction to minimize disturbance to wildlife during the winter and will include a special lease notice to protect cultural resources. My decision to add forest plan direction for the Jicarilla Ranger District (see below) will also provide more specific guidance in designated areas of resource concern, as well as the rest of the district.

My decision incorporates the lease terms and stipulations determined necessary and justifiable to mitigate effects to surface resources, while making energy resources available for companies willing to employ unconventional drilling technology. My decision strengthens the Forest Service's ability to protect or mitigate impacts to surface resources, through more restrictive

stipulations not adequately addressed by standard leasing terms and conditions. In addition, the stipulation criteria will help the Forest Service make more informed decisions about leasing specific areas on the Jicarilla Ranger District. Prospective gas lessees will also benefit, as better information about site-specific conditions, including stipulations, will be available. The reasons for specific stipulations to be applied on the 4,992 unleased acres I am authorizing for lease are listed in table 1. The parcels to be leased, with stipulations, are displayed at the end of this ROD (figures 5 through 14).

Table 1. Parcels to be leased, stipulations, and reasons for the stipulations

Unleased Parcel ID No. ¹	Legal Description of Parcel	Size (acres)	NSO (acres)	CSU (acres)	Why Constraints are Necessary and Justifiable
1	T. 28 N., R. 4 W., Sec. 24	646	312	127	NSO and CSU applied in Valencia Canyon to protect undeveloped characteristics and potential impacts to cultural resources, wildlife security, and seclusion in this ARC. CSU applied outside ARC on slopes over 20 percent to protect surface resources, especially soils from excessive erosion.
2	T. 29 N., R. 5 W., Sec. 1	542	456	0	NSO applied within designated critical Mexican spotted owl habitat to protect federally listed species.
4	T. 30 N., R. 4 W., Sec. 35, NE¼, SE¼	41	0	22	CSU applied on slopes over 20 percent to protect surface resources, especially soils from excessive erosion, wildlife habitat, and recreation values.
5	T. 31 N., R. 4 W., Sec. 34	610	610	0	Parcel is within an identified MSO protected activity center and designated critical habitat. NSO applied on entire parcel to protect federally listed species.
6	T. 31 N., R. 5 W., Sec. 1, E½	193	150	11	NSO applied in Bancos Canyon to primarily protect cultural resources, but also wildlife security and seclusion, soil and water resources. Also, complies with BLM standards for noise in San Juan Basin.
8	T. 32 N., R. 4 W., Sec. 7, S½	262	262	0	Parcel is within MSO nesting habitat. NSO applied on entire parcel to protect federally listed species. Most of parcel has slopes over 40 percent. NSO also protects soil and water resources.
9	T. 32 N., R. 4 W., Sec. 32, S½	336	81	41	NSO applied on within MSO nesting habitat to protect federally listed species. CSU applied on slopes over 20 percent to protect surface resources, especially soils from excessive erosion. Also, complies with BLM standards for noise in San Juan Basin.

Record of Decision

Unleased Parcel ID No. ¹	Legal Description of Parcel	Size (acres)	NSO (acres)	CSU (acres)	Why Constraints are Necessary and Justifiable
10	T. 32 N., R. 5 W., Sec. 21, E½, W½	156	0	89	CSU applied on slopes over 20 percent to protect surface resources, especially soils from excessive erosion, but also wildlife habitat.
11	T. 32 N., R. 5 W., Sec. 28, E½	331	19	145	NSO applied in Bancos Canyon to primarily protect cultural resources, but also wildlife security and seclusion, soil and water resources in this ARC. CSU applied outside ARC on slopes over 20 percent to protect surface resources, especially soils from excessive erosion.
12	T. 32 N., R. 5 W., Sec. 34, S½ & Sec. 35, SW¼	487	487	0	Parcel is entirely within Bancos Canyon. NSO applied to primarily protect cultural resources, but also wildlife security and seclusion, soil and water resources. Also, complies with BLM standards for noise in San Juan Basin.
13	T. 32 N., R. 5 W., Sec. 9, E½, E½ of W½	429	0	142	CSU applied on slopes over 20 percent to protect surface resources, especially soils from excessive erosion, but also wildlife habitat.
14	T. 31 N., R. 4 W., Sec. 35, N½	318	70	109	Parcel partially within an identified MSO protected activity center and designated critical habitat. NSO applied in this area to protect federally listed species. CSU applied on slopes over 20 percent to protect surface resources, especially soils from excessive erosion, but also wildlife habitat.
15	T. 30 N., R. 4 W., Sec. 11 (NFS lands only)	641	0	203	CSU applied on slopes over 20 percent to protect surface resources, especially soils from excessive erosion, but also wildlife habitat.
Total		4,992	2,447	889	

ARC areas of resource concern ²

CSU controlled surface use

LN special cultural resource lease notice (applies to all new leases)

MSO Mexican spotted owl

NSO no surface occupancy

PAC protected activity center

SLT standard lease terms

TR timing restriction (applies to all new leases)

Some of unleased parcels described and evaluated in the DEIS were found to be incorrect. This FEIS includes changes made to the size and location of currently unleased parcels for the Jicarilla Ranger District.

² Areas of resource concern are identified and discussed in the next section of this ROD, "Decision to Include Additional Forest Plan Guidance."

Decision and Rationale to Include Additional Guidance in the Carson Forest Plan

I am selecting the management direction included in alternative B with the exception of open road densities in winter big game range, which I am selecting from alternative C, and the visual quality objective for Vaqueros Canyon, which I am selecting from alternative D. I have also made a modification to alternative B's management direction for areas of resource concern. This decision adds management direction for the Jicarilla Ranger District to the Carson forest plan through a non-significant amendment. Incorporating additional management direction does not significantly alter the long-term relationship between levels of multiple-use goods and services originally projected in the forest plan. In addition, the amendment only applies to the Jicarilla Ranger District and does not affect the entire land management plan or affect land and resources throughout a large portion of the Carson National Forest.

The decision to include more specific direction in the forest plan for the Jicarilla Ranger District meets the need for facilitating the orderly development of energy resources and recognizing the rights of current lessees, while appreciating the district's distinctive environmental characteristics and minimizing impacts to surface resources and uses. Although the forest plan does a good job of balancing the majority of the various resource uses and desired conditions on the Jicarilla Ranger District, it does not recognize the unique management associated with gas development. My selections, as well as reasons for my selections, are identified in table 2.

Alternative B proposed to increase the density of open roads in winter deer and elk range on the district. I have decided to not change the current forest plan guideline relative to open road densities for public use within winter big game range on the Jicarilla Ranger District. The effects of this option were analyzed under alternatives A and C. After reviewing the FEIS, I felt no need to change the forest plan guideline to achieve habitat effectiveness for wintering big game. The FEIS ("Wildlife" section) discloses there is little in the way of public use on National Forest System roads from December 15 to April 15. Most vehicular traffic is from ongoing gas-related activities,⁷ which cannot be reasonably reduced. Transporting water generated by drilling activities offsite requires constant visits to and from well pads. Many operators have converted to telemetry when monitoring the status of wells, but water hauling cannot be avoided. Where open road densities in winter big game range are more than 0.5 mile per square mile, the Jicarilla Ranger District has been managing over time to reduce the number of miles of road open to the public by installing gates. For example, since 2004, the district has been able to close over 1.5 miles of road that had been open to public access.

⁷ Ongoing gas-related activities that require the use of National Forest System roads are not considered a public use and, therefore, not required to meet the forest plan guideline for open road density in winter big game range.

Table 2. Management direction selected to be added to the Carson forest plan and reasons for selection

Forest Plan Direction Added to Forest Plan	Rationale for Decision										
<p>General administration for gas development — Minimize surface disturbance on the Jicarilla Ranger District. Where feasible, encourage the use of unconventional drilling techniques, such as directional drilling, and well siting measures, such as co-location and twinning, to minimize impacts to surface resources. Encourage the use of existing well pads, roads, and pipeline corridors for new facilities. Same for new and existing leases.</p>	<p>By encouraging unconventional drilling techniques, the number of new well pads, pipelines, and roads and their consequent surface disturbance will be reduced. This in turn will reduce overall traffic, which decreases impacts to soils and vegetation, air caused by fugitive dust, habitat fragmentation, and the spread of noxious weeds from vehicles traveling on lease roads.</p>										
<p>Utilize established best management practices found in the most current version of the “Oil and Gas Surface Operating Standards for Oil and Gas Development” (Gold Book). Same for new and existing leases.</p>	<p>The “Gold Book” provides guidance for the operator about the basic requirements for safe and environmentally sound construction and maintenance of oil and gas related infrastructure. Construction and maintenance must be performed to standards that ensure the long-term health and productivity of the land.</p>										
<p>Bancos Canyon, La Jara Canyon, Valencia Canyon, Fierro Mesa and Canyon, and Vaqueros Canyon are identified as areas of resource concern. Within these areas, apply current forest plan direction for Management Areas 4, 7, 8, 12, and 13 and manage for protecting, maintaining, and enhancing the resource values for which they are identified. These resource values by area are:</p> <table border="1" data-bbox="250 1213 795 1686"> <thead> <tr> <th data-bbox="250 1213 532 1276">Area of Resource Concern</th> <th data-bbox="532 1213 795 1276">Resource Values</th> </tr> </thead> <tbody> <tr> <td data-bbox="250 1276 532 1377">Bancos Canyon</td> <td data-bbox="532 1276 795 1377">Cultural resources, watershed, wildlife habitat, and seclusion</td> </tr> <tr> <td data-bbox="250 1377 532 1541">La Jara Canyon and Valencia Canyon</td> <td data-bbox="532 1377 795 1541">Undeveloped characteristics, cultural resources, wildlife security, seclusion</td> </tr> <tr> <td data-bbox="250 1541 532 1619">Fierro Canyon and Mesa</td> <td data-bbox="532 1541 795 1619">Undeveloped characteristics</td> </tr> <tr> <td data-bbox="250 1619 532 1686">Vaqueros Canyon</td> <td data-bbox="532 1619 795 1686">Visual resources, wildlife habitat</td> </tr> </tbody> </table> <p>Prior to developing any new well sites, associated roads, and pipelines within an area of resource concern, consider alternative drilling technology and various site locations to minimize the impacts to surface resources. A 5-year development strategy will be encouraged prior to proposed</p>	Area of Resource Concern	Resource Values	Bancos Canyon	Cultural resources, watershed, wildlife habitat, and seclusion	La Jara Canyon and Valencia Canyon	Undeveloped characteristics, cultural resources, wildlife security, seclusion	Fierro Canyon and Mesa	Undeveloped characteristics	Vaqueros Canyon	Visual resources, wildlife habitat	<p>My decision identifies Bancos Canyon, La Jara Canyon, Valencia Canyon, Fierro Mesa and Canyon, and Vaqueros Canyon as areas of resource concern and strengthens management area direction in the forest plan to protect, maintain, and enhance their resource values. Leaseholders will be encouraged to prepare a 5-year development strategy prior to proposed development in these areas. <i>Requiring</i> a 5-year development strategy will not necessarily provide any additional protective measures to areas of resource concern. Current lease stipulations and conditions of approval, as well as the new forest plan direction in this decision, are reasonable prescriptive management measures that will protect sensitive environmental resources. Leaseholders have already been working to protect the resource values of these areas by cooperating with the district to minimize surface impacts on existing leases. My decision to encourage, rather than require, a 5-year development strategy will ensure leaseholders take a long view of development in areas of resource concern, while not prescribing how they should develop their leases. All new leases within areas of resource concern will include a no surface occupancy stipulation, which will protect the resource values for which they are identified.</p>
Area of Resource Concern	Resource Values										
Bancos Canyon	Cultural resources, watershed, wildlife habitat, and seclusion										
La Jara Canyon and Valencia Canyon	Undeveloped characteristics, cultural resources, wildlife security, seclusion										
Fierro Canyon and Mesa	Undeveloped characteristics										
Vaqueros Canyon	Visual resources, wildlife habitat										

Forest Plan Direction Added to Forest Plan	Rationale for Decision
development in areas of resource concern. Applies to existing leases.	
Timing Restriction — New drilling activity and completions is limited to April 1 through October 31. Normal recurring production and day-to-day operations will continue to occur year-round. Exceptions may be considered on a case-by-case basis. Applies as a condition of approval on existing leases, to be negotiated with the operator. This limitation does not apply to maintenance and operation of producing wells.	This seasonal restriction will be incorporated in the surface use plan of operations as a condition of approval. Traffic for regular maintenance at existing well sites will still occur, but not allowing well drilling during the winter months will minimize disturbance to wildlife, especially deer and elk.
Exclude well pad construction in riparian areas. Same for new and existing leases. If there are no other options other than to construct a well pad within a riparian area, additional NEPA analysis to approve a surface use plan of operations will be required and a site-specific amendment to the forest plan would be required.	Riparian areas are identified in the Carson forest plan as the “single most critical management area on Carson” and “important to many users.” Excluding well pad construction in the few riparian areas scattered on the Jicarilla Ranger District will protect riparian systems and facilitate attainment and maintenance of proper functioning condition. The Federal government can require relocation of proposed operations up to 656 feet (200 meters (43 CFR Subpart 3101-2)). The riparian areas identified on the Jicarilla Ranger District are small, narrow, and scattered along drainages. If a well site is proposed within a riparian area, it is anticipated that relocation of a well site can be achieved without compromising existing lease rights. If there are no options but to construct within a riparian area, additional NEPA analysis will be needed to amend the forest plan for a site-specific project.
When possible, exclude well pad construction on slopes greater than 20 percent, with cuts over 15 feet. Same for new and existing leases.	Slope restrictions will preclude construction activities on slopes and soils that are highly erodible and difficult to rehabilitate. Reducing the removal of vegetation on slopes will maintain soil productivity and stability. Analysis of the effects of gas activities on the soil resource, including steep slopes, is documented in chapter 3 of the FEIS. Some exceptions to following these slope guidelines could be, when doing so, the well location would cause unacceptable adverse impacts to other resources, such as archeological sites or goshawk habitat.
Avoid new roads crossing slopes greater than 40 percent. Require an engineering design approved by the Forest Service to support road construction on slopes greater than 40 percent. Same for new and existing leases.	
Limit maximum grades to 8 percent for new roads, unless pitches are less than 300 feet (up to 10 percent permitted in some cases). Same for existing and new leases.	

Forest Plan Direction Added to Forest Plan	Rationale for Decision
<p>Locate pipelines to minimize surface disturbance, such as aligning along existing roads and corridors. Also minimize surface disturbance by putting pipes deep enough to allow other surface uses to occur on top of these lines. Same for new and existing leases.</p>	<p>By encouraging operators to locate pipelines along roads and centralize collection points, surface impacts can be minimized and efficiency may be improved.</p>
<p>Encourage centralization collection points and water pipelines for produced water. Same for new and existing leases.</p>	
<p>Close all new lease roads over 300 feet in length to public motorized access, except where other resource needs dictate that a road should be left open to the public. Same for new and existing leases.</p>	<p>New roads accessing existing leaseholds are continuously being constructed on the Jicarilla Ranger District. These roads are not a part of the district’s road system that is open to the public. Requiring these access roads to be closed will keep open road densities on the district from increasing and help reduce disturbance to wildlife from public traffic.</p>
<p>Permit loop roads to access leases in cases only where a transportation proposal developed by the operator and approved by the Forest Service demonstrates that there would be a benefit to surface resources. Same for new and existing leases.</p>	<p>In cooperation with the NM Department of Game and Fish (NMDGF), the Carson National Forest, including the Jicarilla Ranger District, manages to minimize the number of loop roads open to the public. Fewer loop roads allow the NMDGF to better enforce its game management laws and reduce impacts to wildlife.</p> <p>There have been instances on the Jicarilla Ranger District where the construction of a loop road to access a lease clearly reduced natural resource impacts. These loop roads are required to be gated and are not open to the public; therefore, they should not affect the NMDGF’s law enforcement efforts.</p>
<p>Complete restoration and reclamation of surface disturbance to achieve 70 percent of the ground cover (compared to nearby undisturbed areas) with permanent native vegetation within 3 growing seasons. Bare ground necessary to conduct day-to-day operations must be kept to a minimum. Monitor the success of ground cover establishment until 70 percent of the ground cover is attained. Reclamation meeting the same standard is required for redisturbance of revegetated areas. Same for new and existing leases.</p>	<p>Forest Service regulations (36 CFR 228.8 (g)) require all gas operations to be conducted so as to minimize adverse environmental impacts on national forest surface resources. This includes taking such measures as preventing or controlling onsite and offsite damage to the environment and forest surface resources by controlling erosion and landslides, water runoff, and reshaping and revegetation of disturbed areas, where reasonably practicable.</p>
<p>Monitor and maintain reclaimed areas to minimize the establishment of invasive plants during the reclamation period. Same for new and existing leases.</p>	<p>This requirement will minimize proliferation of invasive plants on the Jicarilla Ranger District and is consistent with Forest Service policy (FSM 2080).</p>

Forest Plan Direction Added to Forest Plan	Rationale for Decision
<p>Manage Vaqueros Canyon for a visual quality objective (VQO) or scenic integrity level of partial retention. This objective may be reduced by one level to meet other resource goals on a case-by-case basis.</p> <p>Employ design criteria for visual elements that adhere to the natural characteristics dominating the landscape to the extent possible.</p>	<p>My selection for a VQO of partial retention in Vaqueros Canyon was analyzed under alternative D.</p> <p>Currently, the portion of Vaqueros Canyon within the Jicarilla Ranger District is entirely leased. Existing gas development occurs both in the foreground and background. The forest plan's visual quality objective is retention and can be reduced by one level to meet resource goals. By changing the VQO in Vaqueros Canyon, visual resource management will be consistent with the Forest Service's responsibility related to gas leasing laws and regulations. Efforts will be made to maintain natural characteristics of the landscape by using low-profile equipment, paint the color of the surroundings, and tree screens.</p>
<p>All newly developed facilities will utilize the air quality mitigation as set forth by the New Mexico Air Quality Bureau. When existing facilities are updated, industry will also follow these mitigation measures.</p> <p>Same for new and existing leases.</p>	<p>The Forest Service has no regulatory authority over air quality. However, agency actions and use authorizations must comply with all applicable local, State, tribal, and Federal air quality laws, statutes, regulations, standards, and implementation plans.</p> <p>The New Mexico Air Quality Bureau (NMAQB) is responsible for enforcing the State and National ambient air quality standards in New Mexico and any emission source must comply with these regulations. Appropriate mitigation applied at the site specific level, when gas facilities are constructed, can ensure compliance with NMAQB regulations to protect air quality, while fully meeting requirements of the Energy Policy Act and providing for the orderly development of important energy resources. This forest plan prescription allows for developments in mitigation control measures and technological advances set forth by the NMAQB, as well as the changes in ambient air conditions within the San Juan Basin.</p> <p>The Forest Service will also continue to be involved in the collaborative process of the Four Corners Air Quality Task Force in planning control strategies for future air quality impacts from development.</p>

Forest Plan Direction Added to Forest Plan	Rationale for Decision
<p>Comply with BLM’s management of sound generated by oil and gas production and transportation in the San Juan Basin described in the “Notice to Lessees and Operators on Onshore Oil and Gas Leases Within the Jurisdiction of the Farmington Field Office” (appendix C). As changes occur over time, the Forest Service will continue to adopt the BLM standards as they develop. Current standards include, but are not limited to:</p> <ul style="list-style-type: none"> • 48.6 dB(A) Leq will be achieved at Buzzard Park and Cedar Springs Campgrounds, Gasbuggy, and Carracas Mesa Administrative Site. • 48.6 dB(A)Leq will be achieved inside Middle Mesa Raptor Area, Ullbarri Raptor Area, and Munoz Canyon Raptor Area at 400 feet in all directions from the noise source. • Stricter noise standards may be applied to Gasbuggy, Buzzard Park and Cedar Springs Campgrounds, if warranted. • Additional noise sensitive areas, such as primary winter big game range or new camping, picnic, or trail areas, may be identified and/or developed by the Forest Service. Any new policy would be implemented after a 30-day notice to the affected parties. <p>Same for new and existing leases.</p>	<p>The Forest Service has already adopted the BLM’s “Noise Policy” and currently applies it to new well sites. Adding this as forest plan guidance formalizes the policy in managing natural gas resources to reduce impacts from noise in key wildlife habitats and recreation sites, as well as, acknowledging noise as an issue raised by the public. The policy specifies a noise standard, but allows companies the flexibility of choosing which equipment or method(s) they will use to reach the standard. If conditions warrant, the Jicarilla Ranger District can add more noise sensitive areas.</p>

Decisions Not Being Made

This ROD does not make decisions to permit the actual drilling or subsequent operations. Forest Service regulations state, “No permit to drill on a Federal oil and gas lease . . . may be granted without the analysis and approval of a surface use plan of operations covering proposed surface disturbing activities” (36 CFR 228.106). The following decisions are required by the regulations at 36 CFR 228, but are not being made in this ROD:

- Approval of a Surface Use Plan of Operations (36 CFR 228.107(b))
- Approval of a Supplemental Surface Use Plan of Operations (36 CFR 228.107(e))

Compliance with the National Environmental Policy Act is required for both of these subsequent decisions.

This decision does not change any of the rights granted in existing oil and gas leases nor does it affect the development of non-federally owned minerals.

Public Involvement

The USDA Forest Service initially published a notice of intent (NOI) in the Federal Register (67 FR 52706-52709, August 13, 2002) for the proposed surface management of natural gas resource development on the Jicarilla Ranger District, Carson National Forest. As part of the public involvement process for the DEIS, the Agency mailed a description of the purpose and need, the proposed action, and a project timeline to over 500 agencies, organizations, and citizens. Public meetings, using an open house format, were held in Bloomfield and Farmington, New Mexico. A total of six people attended these public scoping meetings and the Forest Service received 17 letters with comments on the proposed action. The DEIS for this proposal was released in October 2003.

Based on public comments received on the DEIS, the Carson forest supervisor determined there was a need to clarify the purpose and need for action and modify the proposed action. He subsequently withdrew the DEIS and published a revised NOI in the Federal Register (69 FR 59881-59883) on October 6, 2004. Public comments on the withdrawn DEIS were taken into account in development of the proposed action for the revised NOI.

Another comment period occurred following the 2004 revised NOI. A summary of the new proposed action and purpose and need was mailed to over 500 individuals and a detailed description of the proposed action was posted on the Carson National Forest Web site (www.fs.fed.us/r3/carson). Twelve letters with comments were received during this comment period. Additionally, two meetings were held on November 23 and December 6, 2004, with groups that desired more information about the proposed action. A total of nine people attended these meetings. Using the comments provided from the public, other agencies, and industry representatives during scoping, the interdisciplinary team developed a list of issues related to the proposed action. Alternatives to the proposed action were developed to address significant issues.

A notice of availability for the second DEIS was published in the Federal Register on February 16, 2007 (72 FR 7653). A 60-day comment period followed. Thirty-one comment letters were received from various Federal and State agencies, tribes, special interest groups, leaseholders, industry representatives, and individuals. The letters were reviewed, comments were organized by topic, and responses to these comments can be found in appendix E.

Amended notices related to correcting EIS release dates and changing the responsible official were published in the Federal Register on May 15, 2007 (72 FR 27282) and July 8, 2008 (73 FR 38969-70).

In addition, the proposal for surface management of gas leasing and development on the Jicarilla Ranger District has been listed on the forest's "Schedule of Proposed Actions" since January 2003. This document is updated and mailed or made available on the World Wide Web (<http://www.fs.fed.us/r3/carson/plans/index.shtml>) every 3 months to those who are interested in activities proposed on the Carson National Forest.

Coordination with State Agencies

New Mexico Environment Department

In response to New Mexico's Environment Department, Air Quality Bureau's (NMAQB) comments on the effects to air quality (FEIS, chapter 3 and appendix E), the Forest Service worked closely with the bureau to ensure their concerns were well understood and addressed.

Revisions were made to the emissions inventory included in the FEIS and the air quality modeling was revised to be consistent with BLM requirements.

In addition, the FEIS referenced voluntary programs, such as the Environmental Protection Agency's (EPA) Natural Gas Stars and San Juan Visibility Improvement State and Tribal Association (VISTAS), and included their mitigation strategies for efficient and environmentally responsible development of oil and gas resources. Industry is encouraged to participate in these programs which not only reduce emissions to the atmosphere, but prevent loss of precious resources. Forest Service staff has also been participating in the Four Corners Air Quality Task Force and supports implementation of mitigation options developed by the task force.

New Mexico Department of Game and Fish

In response to New Mexico Department of Game and Fish (NMDGF) comments to the DEIS on the effects to wildlife, in particular big game species (FEIS, chapter 3 and appendix E), the Forest Service met with the department to ensure their concerns were addressed. Revisions were made to include NMDGF big game population trend data into the FEIS. A new model for effects to mule deer from well pad development was also included. The NMDGF assessment of their population data and use of the new model provide a better understanding of the current impacts to big game on the district.

State Historic Preservation Office

Since it is not feasible to complete the identification and evaluation of heritage resources and effects consultation for all estimated natural gas undertakings identified in the EIS prior to signing the NEPA decision, the forest proposed to implement a phased identification and evaluation approach under a programmatic agreement with the State Historic Preservation Officer (SHPO) to comply with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA, 16 U.S.C. § 470 et seq.) and Forest Service regulations (36 CFR 800.4 (b) (2)). The "Programmatic Agreement Among the United States Department of Agriculture, Forest Service, Carson National Forest and the New Mexico State Historic Preservation Officer Regarding the Environmental Impact Statement for Surface Management of Gas Leasing and Development on the Jicarilla Ranger District, New Mexico," was signed by SHPO on July 24, 2008. It includes a stipulation that the Carson National Forest will ensure currently unleased lands identified in the Jicarilla FEIS that the BLM include a specific special cultural resource lease notice in future lease packages prior to sale.

Tribal Consultation

Native American tribes were notified of the proposed action and have also been updated through the Schedule of Proposed Actions. The first and second DEIS's were sent in 2003 and 2006 to the same tribes that received the proposed action. The Carson National Forest met with the Southern Ute Tribe, Ute Mountain Ute Tribe, the Nagazi Chapter of the Navajo Nation, and the Navajo Nation Tribal Historic Preservation Office. The Carson National Forest also followed up with informal discussions with the Cultural Preservation Office of the Jicarilla Apache Indian Tribe. Verbal and/or written responses were received from the Jicarilla Apache, Navajo Nation, Nagezi Chapter, Pueblo of Tesuque, Southern Ute, and Hopi Tribe.

The Navajo Nation identified and submitted comments regarding two traditional cultural properties located on currently leased land within the district. The Hopi Tribe recommended the forest consider not leasing the remaining unleased parcels to maintain and not disturb natural and cultural resources. The Jicarilla Apache expressed concerns about the effects to reservation gas production, if the unleased parcel located adjacent to the boundary between the district and reservation is leased. No specific concerns about traditional collection areas were identified through consultation.

When the programmatic agreement (see previous section) was being developed between the Forest Service and SHPO, tribes were invited to participate. The forest sought participation with tribes that identified traditional cultural properties or traditional areas on the Jicarilla Ranger District for the DEIS and past consultations for other forest projects. In past consultations, the Jemez Pueblo, Santa Clara Pueblo, Ohkay Owingeh Pueblo, Jicarilla Apache Nation, Hopi Tribe, Navajo Nation, and Southern Ute Indian Tribe specified cultural ties and/or traditional use areas on the Jicarilla Ranger District. Several versions of the draft agreement were formally mailed and e-mailed to tribal government officials and tribal cultural preservation officers or directors.

A meeting to present the draft agreement to interested or affected tribes was held in Albuquerque on December 19, 2007. The purpose of the meeting was to review, discuss, and receive any comments and recommendations the tribes would like to provide or have incorporated into the programmatic agreement to improve it and/or the NHPA process for gas development activities on NFS lands. At the meeting, tribal representatives from the Navajo Nation and Tesuque Pueblo requested to be taken out to the unleased parcels, in order to better orient themselves to the landscape. Overall, tribal officers did not have any specific recommendations or concerns about the agreement or the DEIS. Several tribes were unable to make the meeting and requested individual meetings with district or forest officials.

The Ute Mountain Ute Tribe cultural preservation officer met with the district ranger, forest archeologist, and district archeological staff. The Carson forest supervisor and the forest archeologist met with Taos Pueblo officials to discuss the programmatic agreement and update them on the DEIS. The Taos Pueblo administration did not have any concerns about cultural resources on the Jicarilla Ranger District. A representative from the Navajo Nation Historic Preservation Department later met with the district ranger and district archeologist and viewed several areas on the district. The Tesuque Pueblo Tribal Preservation Officer and several tribal elders also visited the Jicarilla Ranger District. The forest archeologist also met with elders of the Hopi Tribe Cultural Resource Advisor Team (CRAT) and the Cultural Preservation Office. CRAT expressed concerns with the extensive drilling across the landscape, multiple-use conflicts with gas development and probabilities of surface cave-ins. Additional field visits will be conducted as requested prior to officially leasing the parcels and for individual proposed projects.

The Hopi Tribe specifically requested the agreement include a provision that the forest designate a location that will not be disturbed into perpetuity for reburial of human remains and funerary objects that are disturbed by gas development. Tribal consultation is continually being conducted by the Carson National Forest. If culturally important locations or traditional cultural places are identified during consultation, identified locations may require avoidance by surface-disturbing activities or any structures that would result in adverse impacts.

Significant Issues and How They Were Addressed

Using the comments provided from the public, other agencies, and industry representatives during scoping, the interdisciplinary team developed a list of issues related to the proposed action. The Forest Service separated the issues into two groups: significant and non-significant issues. Significant issues were defined as those directly or indirectly caused by implementing the proposed action. Non-significant issues were identified as those: (1) outside the scope of the proposed action; (2) already decided by law, regulation, forest plan, or other higher level decisions; (3) irrelevant to the stated decision to be made; or (4) conjectural and not supported by scientific or factual evidence. The Council on Environmental Quality (CEQ) NEPA regulations explain this delineation in Sec. 1501.7, "...identify and eliminate from detailed study the issues which are not significant or which have been covered by prior environmental review (Sec. 1506.3)..." The Forest Service identified significant issues and developed two alternatives to the proposed action (alternatives C and D) to address them. Significant issues and the alternative(s) that address them are:

- Leasing the remaining non-leased portions of Jicarilla Ranger District may add environmental harm (especially to wildlife habitat and heritage resources) to an area already heavily impacted (no leasing in alternatives A and C).
- Increasing the density of roads open to public use during the winter can reduce habitat effectiveness in winter big game range (no change in forest plan guideline in alternatives A and C).
- Gating all new roads over 300 feet may cause undue hardship on the leaseholder (no requirement for leaseholders to gate roads in alternatives A and D).
- Gas development, especially in riparian areas, may increase noise and affect neotropical birds (no compressors in riparian areas in alternative C).
- Reclamation and revegetation prescriptions may not result in a net increase in the amount and quality of forage for wildlife species (more stringent reclamation measures in alternative C).
- Not changing the forest plan visual quality objective or scenic integrity level of "retention" for the U.S. 64 corridor (Vaqueros Canyon) may affect access to gas resources on existing leases (partial retention with step down to modification on case-by-case basis in alternative D).
- As the number of roads increase on the district from gas development, dust will increase and may contribute to the impacts on air (dust abatement measures in alternative C).
- The proposed action may restrict access to gas resources by limiting and not permitting surface disturbance and road construction in Bancos, La Jara, Valencia, and Fierro Canyons and Fierro Mesa on new leases (no areas of resource concern or associated stipulation criteria in alternative D).
- The proposed action may reduce wildlife security as it permits the possible construction of loop roads to access well sites (no loop roads in alternative C).

Description and Comparison of Alternatives Considered

Public comments received in response to the proposed action provided suggestions for alternative methods for achieving the purpose and need. Some of these alternatives may have been outside the scope of consideration for gas leasing and development, duplicative of the alternatives considered in detail, or determined to be components that would cause unnecessary environmental harm. Therefore, six alternatives were considered, but dismissed from detailed consideration for reasons summarized in chapter 2 of the FEIS.

The Forest Service developed two other alternatives in response to significant issues raised by the public for a total of four alternatives considered in detail, including the no action and proposed action.

Alternative A

Alternative A was the “no action” alternative, required by NEPA. Under the no action alternative, no change in existing management of gas development would occur on the Jicarilla Ranger District. The considerations and assumptions common to all alternatives applied under alternative A. Since this alternative would not make a leasing decision on the Jicarilla Ranger District and would not provide additional forest plan direction for the district in managing gas development and other uses, alternative A did not meet the purpose and need; therefore, it was not selected.

Alternative B

Alternative B, the proposed action, is the selected alternative, with a few modifications.

Alternative C

Alternative C addressed not leasing the remaining unleased portions of the Jicarilla Ranger District. Alternative C kept the current forest plan forest-wide prescription for road density in winter big game range, which is less than alternative B. Alternative C included no new loop roads and additional dust abatement and reclamation measures. It also prohibited compressors in riparian areas. This alternative also recognized Bancos, La Jara, and Valencia Canyons, and Fierro Canyon and Mesa as areas of resource concern, but the 5-year development strategy required in these areas under alternative B also applied to the rest of the Jicarilla Ranger District in alternative C. This alternative did not propose to amend the Carson forest plan to include guidelines for road densities in winter big game range, specific to the Jicarilla Ranger District.

By not authorizing new leases, alternative C did not meet the need for the orderly development of domestic mineral resources on the entire Jicarilla Ranger District to help meet the public’s need for natural gas. The stipulations applied in alternative B adequately address my concerns related to endangered species habitat, steep slopes, and protecting cultural resources on unleased areas of the district. I did not find any reason why the remaining unleased areas on the district could not be leased with applicable stipulations.

Alternative C included more stringent restoration and reclamation requirements than what I selected in alternative B. The selected restoration and reclamation program is more realistic and achievable for the conditions on the Jicarilla Ranger District. The program is also consistent with what is being applied on BLM lands within the San Juan Basin.

In considering the effects of changing the forest plan guideline for open road density in winter big game range on the Jicarilla Ranger District (FEIS, chapter 3, “Wildlife” section), I found there was little difference between alternatives B and C. I decided it was important for the district to continue to strive over time to reduce roads open to the public in winter big game range and also be consistent with the rest of the forest; therefore, I selected this element from alternative C, instead of alternative B.

Alternative D

Alternative D addressed not establishing any areas of resource concern; therefore, the NSO stipulations would not apply on new leases within these areas. This alternative did not require gating new lease roads and reduced the visual quality objective along Vaqueros Canyon to partial retention. This alternative provides less protection for the distinctive characteristics of the Jicarilla Ranger District—cultural resources, wintering big game, undeveloped characteristics of Bancos, La Jara, Fierro, and Valencia Canyons.

I did, however, select this alternative’s visual quality objective of partial retention for Vaqueros Canyon. Currently, the portion of Vaqueros Canyon within the Jicarilla Ranger District is entirely leased. From the U.S. 64 highway corridor, existing gas development is seen both in the foreground and background. The visual quality objective (VQO) for Vaqueros Canyon in the forest plan is presently retention, which, in most cases, cannot be met without compromising existing lease rights. By changing the VQO in Vaqueros Canyon, visual resource management will be consistent with the Forest Service’s responsibility related to gas leasing laws and regulations. Efforts will be made to maintain natural characteristics of the landscape by using low-profile equipment, paint the color of the surroundings, and tree screens.

Environmentally Preferable Alternative

The CEQ regulations (40 CFR 1505.2(b)) require the ROD identify the alternative(s) that could be considered environmentally preferable. The environmentally preferable alternative is defined by CEQ as: (1) the alternative that causes the least damage to the biological and physical environment, and (2) the alternative that best protects, preserves, and enhances historic, cultural, and natural resources.

Alternative C is the environmentally preferable alternative, as it would not lease any of the unleased areas on the Jicarilla Ranger District. For the reasons stated above under alternative C and in my rationale for the leasing decision, I believe allowing extraction of significant energy resources with stipulations to protect biological, physical, and cultural resources will achieve the management objectives for the unique characteristics of the Jicarilla Ranger District.

Findings Required By Other Laws

The analysis of the proposed surface management of gas leasing and development on the Jicarilla Ranger District must comply and conform to a number of statutory requirements, including requirements of the following acts.

National Forest Management Act

Every national forest unit is required to develop a land and resource management plan (forest plan) by the National Forest Management Act of 1976 (NFMA, 16 U.S.C. §§ 1600-1614 et seq.). The Carson forest plan was approved in 1986. Implementation is designed to provide for multiple use and sustained yield of goods and services from the National Forest System in a way that maximizes long-term net public benefits in an environmentally sound manner (36 CFR 219.1(a)). The Carson forest plan guides all natural resource management activities including gas leasing and establishes resource management standards. Determining an appropriate leasing program through this analysis will help implement the Carson forest plan.

This decision is responsive to applicable current laws and regulations guiding the planning and management of National Forest System lands (FEIS, chapter 3). In accordance with NFMA implementing regulations at 36 CFR 219, the relationship of nonrenewable resources, such as oil and gas, to renewable resources was considered (FEIS, chapter 3). Jicarilla Ranger District's various ecosystems were identified and their management was considered for the production of goods and services.

The stipulations described in the decision are designed to meet the relevant specific management requirements for resource protection as required by the NFMA.

- Conserve soil and water resources and not allow significant or permanent impairment of the productivity of the land.
- Protect streams, streambanks, wetlands, and other bodies of water.
- Provide for and maintain diversity of plant and animal communities to meet overall multiple-use objectives.
- Provide for adequate fish and wildlife habitat to maintain viable populations of existing native vertebrate species consistent with multiple-use objectives.
- Prevent the destruction or adverse modification of critical habitat for threatened and endangered species.
- Maintain air quality at a level that is adequate for the protection and use of NFS resources and that meets or exceeds applicable Federal, State and/or local standards or regulations.
- Give special attention to protection of riparian areas.

Amending a Forest Plan

In order to incorporate additional management prescriptions for the Jicarilla Ranger District in the forest plan, the plan must be amended. The National Forest Management Act (NFMA) requires forest land and resource management plans "...be amended in a manner whatsoever after final adoption and after public notice and if such plan amendment would result in a significant change in such plan, in accordance with subsections (e) and (f) of section 6 and public involvement comparable to that required by subsection (d) of this section" (16 U.S.C. 1604 (f)(4)).

In April 2008, the Forest Service published new regulations implementing NFMA in the Federal Register (73 FR 21468-21512). These regulations (36 CFR 219) supercede those which were promulgated in 2000 and 2005. The regulations guide development, revision, and amendment of land management plans. At Section 219.14 (b)(2), the 2008 regulations state,

Plan Amendments. With respect to plans approved or revised pursuant to the planning regulation in effect before November 9, 2000 (see 36 CFR parts 200 to 299, Revised as of July 1, 2000), a 3-year transition period for plan amendments begins on April 21, 2008. During the transition period, plan amendments may continue using the provisions of the planning regulation in effect before November 9, 2000, or may conform to the requirements of this subpart. If the responsible official uses the provisions of the prior planning regulations, the responsible official may elect to use either the administrative appeal and review procedures at 36 CFR part 217 in effect prior to November 9, 2000 (See 36 CFR parts 200 to 299, Revised as of July 1, 2000), or the objection procedures of this subpart. Plan amendments initiated after the transition period must conform to the requirements of this subpart.

I have elected to amend the “Carson National Forest Land and Resource Management Plan” (1986) to incorporate additional management direction for the Jicarilla Ranger District using the “planning regulations in effect before November 9, 2000,” which were promulgated in 1982. On amending a forest plan, the 1982 planning regulations state,

The Forest Supervisor may amend the forest plan. Based on an analysis of the objectives, guidelines, and other contents of the forest plan, the Forest Supervisor shall determine whether a proposed amendment would result in a significant change in the plan. If the change resulting from the proposed amendment is determined to be significant, the Forest Supervisor shall follow the same procedure as that required for development and approval of a forest plan. If the change resulting from the amendment is determined not to be significant for the purposes of the planning process, the Forest Supervisor may implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures (36 CFR 219.10(f)(1982)).

Upon receiving advice from the interdisciplinary team that the plan requires change, I have determined the changes I am making to the Carson forest plan are not significant. Appropriate public notification of this determination has been met through the NEPA process for the surface management of gas leasing and development, Jicarilla Ranger District proposed amendment.

The Carson Forest Plan

In addition to the laws, regulations, and policies that must be followed in managing mineral development on the Jicarilla Ranger District, management direction is found within the resource prescriptions of the Carson forest plan (USDA 1986). The environmental impact statement for the Carson forest plan states, “Mineral commodities of the national forest are available for discovery and exploitation unless the land has been specifically withdrawn from the operation of the mineral laws” (USDA 1986, p. 112).

The forest plan’s desired conditions and prescriptions for the management of surface impacts on National Forest System lands for mineral development are broad and general. For example, the management highlight in the “Minerals” section of the forest plan states, “Administer the mineral laws and regulations to minimize surface resource impacts while supporting sound energy and minerals exploration and development” (USDA 1986, p. Minerals 1). The only direction specifically related to gas development under “Standards and Guidelines” prescribes:

SURFACE OCCUPANCY RESTRICTIONS... For proposed oil and gas leases, include additional stipulations for the protection of surface resources in the following categories: slopes over 40 percent, riparian areas, critical wildlife habitats, and developed and proposed recreation sites. (USDA 1986, pp. Minerals 1-2)

While the forest plan does balance the majority of the various resource uses and desired conditions on the Jicarilla Ranger District, it does not recognize the distinctive management and considerable increase in operations associated with current gas development on the district. Additional forest plan standards and guidelines are needed to guide future gas development and other activities on the district, while meeting the intent of the mineral leasing laws and the Forest Service's regulations of minimizing effects on surface resources, preventing unnecessary or unreasonable surface resource disturbance (36 CFR 228.108).

Changes to the Carson Forest Plan are Not Significant

The amendment for the Jicarilla Ranger District (district) incorporates into the forest plan additional management direction for the district to apply, in order to minimize impacts to surface resources. The amendment:

- incorporates additional management area direction for management areas 4, 7, 8, 12, and 13 only on the Jicarilla Ranger District. The amendment also adds forest plan direction for air, minerals, visual quality, watershed, and wildlife and fish, specifically for Jicarilla Ranger District.
- is consistent with much of the management direction already in the forest plan and would only add appropriate management prescriptions specific to Jicarilla Ranger District.
- does not make any changes to standards and guidelines for the rest of the Carson National Forest. New management direction will not change current outputs or be inconsistent with goals and objectives of the forest plan.
- does not significantly alter the multiple-use goals and objectives for long-term land and resource management on the Carson National Forest.
- does not have an important effect on the entire land management plan or affect land and resources throughout a large portion of the planning area during the planning period. The Carson National Forest covers approximately 1.5 million acres, of which the Jicarilla Ranger District consists of 159,000 acres or 11 percent of the forest.
- does not increase any one type of output that would trigger an increase or decrease in another. The amendment does not include a demand for goods and services not discussed in the forest plan. The amendment will not forego opportunity to achieve a forest output in later years.

Conclusion

Based on a consideration of criteria discussed above, I conclude the amendment for surface management of gas leasing and development on the Jicarilla Ranger District is not significant in a NFMA context (16 U.S.C. 1604 (f)(4)). The amendment is fully consistent with current forest plan goals and objectives. The amendment merely provides management direction for Jicarilla Ranger District.

The Forest Service will continue to evaluate the resource issues of Jicarilla Ranger District. The forest plan revision process will provide an excellent opportunity to review the contents of this amendment.

Since the change resulting from this amendment is determined not to be significant for the purposes of the planning process, I elect to implement the amendment following appropriate public notification and satisfactory completion of NEPA procedures (36 CFR 219.14 (b)(2)).

This decision, including the non-significant amendment, is consistent with the goals and objectives of the forest plan, and is consistent with the management direction, and standards and guidelines for management areas within the Jicarilla Ranger District.

National Environmental Policy Act

This decision is in accordance with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. §§ 4321-4347). The NEPA provisions have been followed as required under 40 CFR 1500. The Jicarilla FEIS and this ROD comply with the intent and requirements of NEPA. The FEIS analyzes a range of reasonable alternatives, including a “no action” alternative. It also discloses the expected impacts of each alternative, and discusses the identified issues and concerns. This document describes the decisions I have made and the rationale for making the decisions.

Endangered Species Act

This decision is consistent with the Endangered Species Act of 1973 (ESA, 16 U.S.C. § 1531 et seq.). Consultation with the U.S. Fish and Wildlife Service (FWS) was conducted and the agency concurred with a “may effect, not likely to adversely affect” for the Mexican spotted owl and its critical habitat. The USFWS letter of concurrence dated June 6, 2008, and assigned consultation number 22420-2008-I-0095 was sent to the forest.

The forest wildlife biologist and district wildlife biologist worked with the FWS biologist assigned to the Energy Policy Act Pilot Team out of Farmington to help determine potential effects to the Mexican spotted owl and its critical habitat from the activities covered in the FEIS. The FWS pilot team biologist reviewed and provided comments to the draft biological assessment, to make sure that all potential effects to the owl and its habitat and critical habitat were covered in the document. The biological assessment provides a site-specific analysis of the leasing of the unleased parcels and a programmatic analysis for the additions to the Carson forest plan.

The NSO stipulation for Mexican spotted owl nesting habitat and within critical habitat on the new leases was added to help keep the effects to the owl nesting habitat and its critical habitat from becoming adversely affected. This meets the Forest Service’s obligation of reducing adverse impacts to a listed species. The Forest Service Manual (FSM 2670.31) states, “Avoid all adverse impacts on threatened and endangered species and their habitats, except when it is possible to compensate adverse effects totally through alternatives identified in a biological opinion.”

National Historic Preservation Act

As described under “Coordination with State Agencies,” the Forest Service and State Historic Preservation Officer (SHPO) signed a programmatic agreement to implement a phased

identification and evaluation approach to comply with Section 106 of the National Historic Preservation Act of 1966, as amended (NHPA, 16 U.S.C. § 470 et seq.) and Forest Service regulations (36 CFR 800.4 (b) (2)). There is potential for encountering previously unrecorded properties or for affecting properties in an unanticipated manner during the course of natural gas leasing and development activity implementation. Previously unrecorded properties that are encountered during the course of an activity shall be protected in the same manner as other eligible or undetermined properties. If the Forest Service determines that an eligible or undetermined property has been damaged, the forest shall use all lawful authority to halt all activities that could result in further damage to the property and shall notify SHPO and Indian tribes that might attach traditional cultural and religious importance to the property concerning proposed actions to resolve adverse effects.

National Energy Policy Act

This decision is in compliance with the Energy Policy Act (EPAc, 42 U.S.C. § 15801). It will contribute to reducing this Nation's dependence on foreign sources of energy by authorizing the domestic production of natural gas on nearly 5,000 acres of federally owned lands in a balanced, comprehensive, and environmentally sensitive way.

In addition, section 362 of EPAc requires timely action by the Department of Interior and Department of Agriculture on oil and gas leases and applications for permits to drill on land available for leasing. To ensure expeditious compliance with NEPA, EPAc (sec. 390) provides five activities that are exempt from the requirements to prepare an environmental impact statement or environmental assessment under NEPA (40 CFR 1508.4). Since the ratification of EPAc in 2005, many of the well permits and ancillary activities on the Jicarilla Ranger District have been approved by using several of the categorically excluded activities under section 390. To further expedite gas development in accordance with EPAc, this decision conforms to section 390 (b)(3) by analyzing drilling as a reasonably foreseeable activity within a developed field. Based on the analysis of this decision, the district will be able to apply category 3 of section 390 to ensure timely action on applications for permits to drill and compliance with NEPA and EPAc:

(3) Drilling an oil or gas well within a developed field for which an approved land use plan or any environmental document prepared pursuant to NEPA analyzed drilling as a reasonably foreseeable activity, so long as such plan or document was approved within five (5) years prior to the date of spudding the well.

The cumulative effects analysis resulting from the FEIS will further expedite gas development in accordance with EPAc, by providing an analysis of drilling as reasonably foreseeable activity in a developed field. The district will be able to apply category 3 of section 390 of the act to ensure timely action on applications for permits to drill on existing lease in compliance with NEPA and EPAc.

Wild and Scenic Rivers Act

The National Wild and Scenic Rivers Act (16 U.S.C. §§ 1271-1287) was established by Congress in 1968 to preserve free-flowing rivers that possess certain "outstandingly remarkable" values. Pursuant to Section 5(d)(1) of the act, the Secretary of Agriculture requires the Forest Service to evaluate rivers within its jurisdiction for their potential for inclusion in the National Wild and

Scenic Rivers System. In 2002, the Carson National Forest evaluated rivers on the Jicarilla Ranger District pursuant to the act (USDA 2002a). Although the district does not contain any perennial surface water features, intermittent channels within Bancos, Vaqueros, La Jara, Valencia, and Fierro Canyons were inventoried as eligible for designation in the National Wild and Scenic River System.

A number of comments on the DEIS questioned why none of the alternatives protected the outstandingly remarkable values of these areas. Of the eligible rivers on the district, my decision identifies Bancos, Vaqueros, and La Jara Canyons as areas of resource concern, where any parcels that are currently unleased or will expire or be relinquished in the future can be leased with a no surface occupancy stipulation. An NSO stipulation in Bancos and La Jara Canyons will protect the outstandingly remarkable values for which they were identified.

The Forest Service cannot deny access to valid existing leases, as it would violate a government contract. Under the Wild and Scenic Rivers Act, existing rights cannot be abrogated in order to implement protections or maintain eligibility. Valencia and Fierro Canyons were not identified as areas of resource concern and given the same protections on future leasing as Bancos and La Jara, because they are both entirely leased and held in production. This makes them unlikely to be leased again. Vaqueros Canyon is an eligible river with several outstandingly remarkable values, including its scenic value. My decision reduces the visual quality objective for Vaqueros Canyon from retention to partial retention; however, Vaqueros Canyon is entirely leased and held by production. It is unlikely to be leased again in the future and this is why I did not maintain the higher VQO, as it would be a forest plan standard that could not be attained during the gas development phase. Within legal parameters, my leasing decision protects the outstandingly remarkable values of the eligible rivers inventoried on the Jicarilla Ranger District in accordance with the Wild and Scenic Rivers Act.

Administrative Review and Appeal Opportunities

This decision is subject to administrative review (appeal) in accordance with 36 CFR 215. A written notice of appeal—clearly stating it is a notice of appeal being filed pursuant to 36 CFR 215.14—must be filed within 45 days from the day after the date of publication of legal notice of this decision in *The Taos News*. The publication date in *The Taos News*, newspaper of record, is the exclusive means for calculating the time to file an appeal. Those wishing to appeal this decision should not rely upon dates or timeframe information provided by any other source.

Individuals or organizations who submitted comments during the DEIS comment period specified at 215.6 may appeal this decision. Interest expressed or comments provided on this project prior to or after the close of the comment period do not have standing for appeal purposes. The notice of appeal must meet the appeal content requirements at 36 CFR 215.14. Names and addresses of appellants will become part of the public record.

The notice of appeal must meet the appeal content requirements at 36 CFR 215.14. An appeal must be filed (regular mail, fax, e-mail, hand delivery, or express delivery) with the appeal deciding officer. Written appeals must be submitted to:

Deputy Regional Forester, Southwestern Region
Appeal Deciding Officer
333 Broadway Blvd., SE
Albuquerque, NM 87102
FAX: (505) 842-3173
E-mail: appeals-southwestern@fs.fed.us

The office business hours for those submitting hand delivered appeals are: 8 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. Electronic comments must be submitted in a format such as an e-mail message, plain text (.txt), rich text format (.rtf), Adobe (.pdf) and Word (.doc) to appeals-southwestern@fs.fed.us. The appeal must have an identifiable name attached or verification of identity will be required. A scanned signature may serve as verification on electronic appeals.

Implementation Date

If no appeals are filed within the 45-day time period, implementation of the decision may occur on, but not before, 5 business days from the close of the appeal filing period. When appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

Contact Person

For additional information concerning this decision or the Forest Service appeal process, contact:

Audrey Kuykendall
Forest Environmental Coordinator
Carson National Forest
208 Cruz Alta Road
Taos, NM 87571
(575) 758-6200

This record of decision and the associated FEIS are available for inspection during regular business hours at the Forest Supervisor's Office at the address stated above. Electronic copies are available on the Carson National Forest's Web site at: <http://www.fs.fed.us/r3/carson/>. Go to "Projects & Plans."

Signature and Date

/s/ERIN CONNELLY
ERIN CONNELLY
Acting Forest Supervisor

July 25, 2008
Date

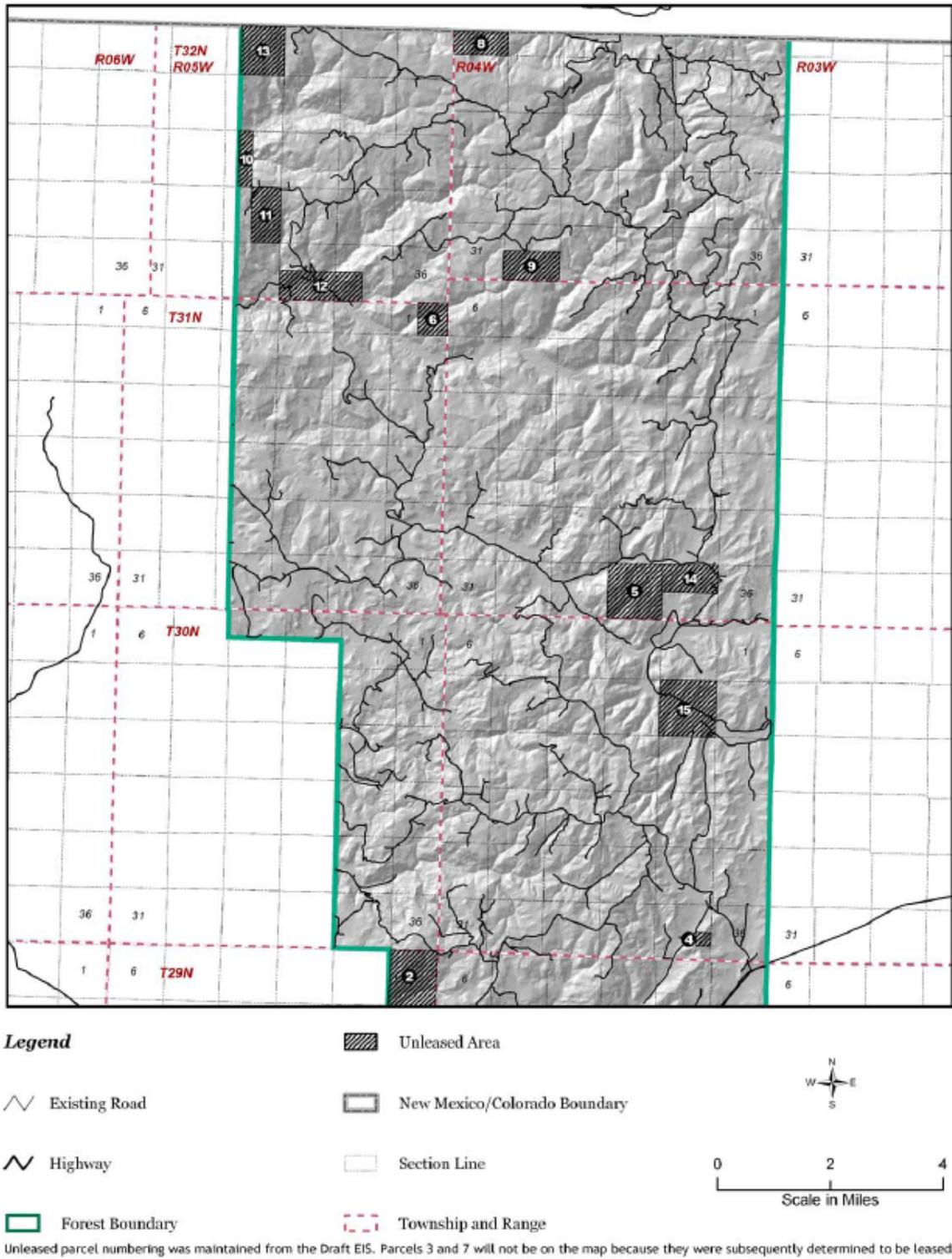
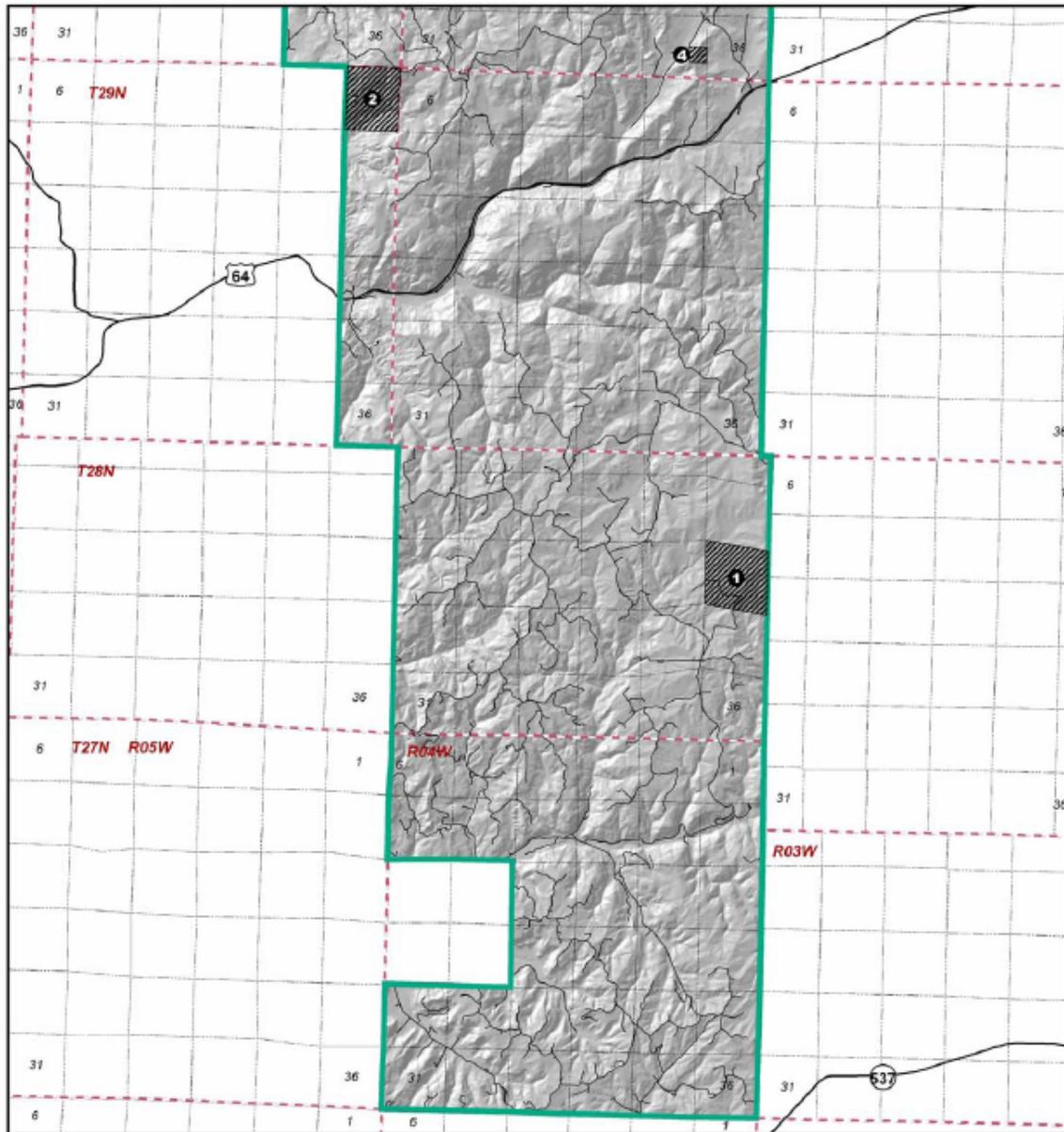
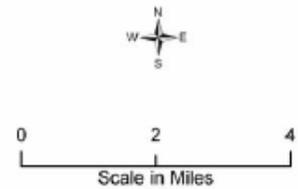


Figure 2. Unleased parcels in the northern part of the Jicarilla Ranger District



Legend

-  Existing Road
-  Highway
-  Forest Boundary
-  Unleased Area
-  Section Line
-  Township and Range



Unleased parcel numbering was maintained from the Draft EIS. Parcels 3 and 7 will not be on the map because they were subsequently determined to be leased.

Figure 3. Unleased parcels in the southern part of the Jicarilla Ranger District

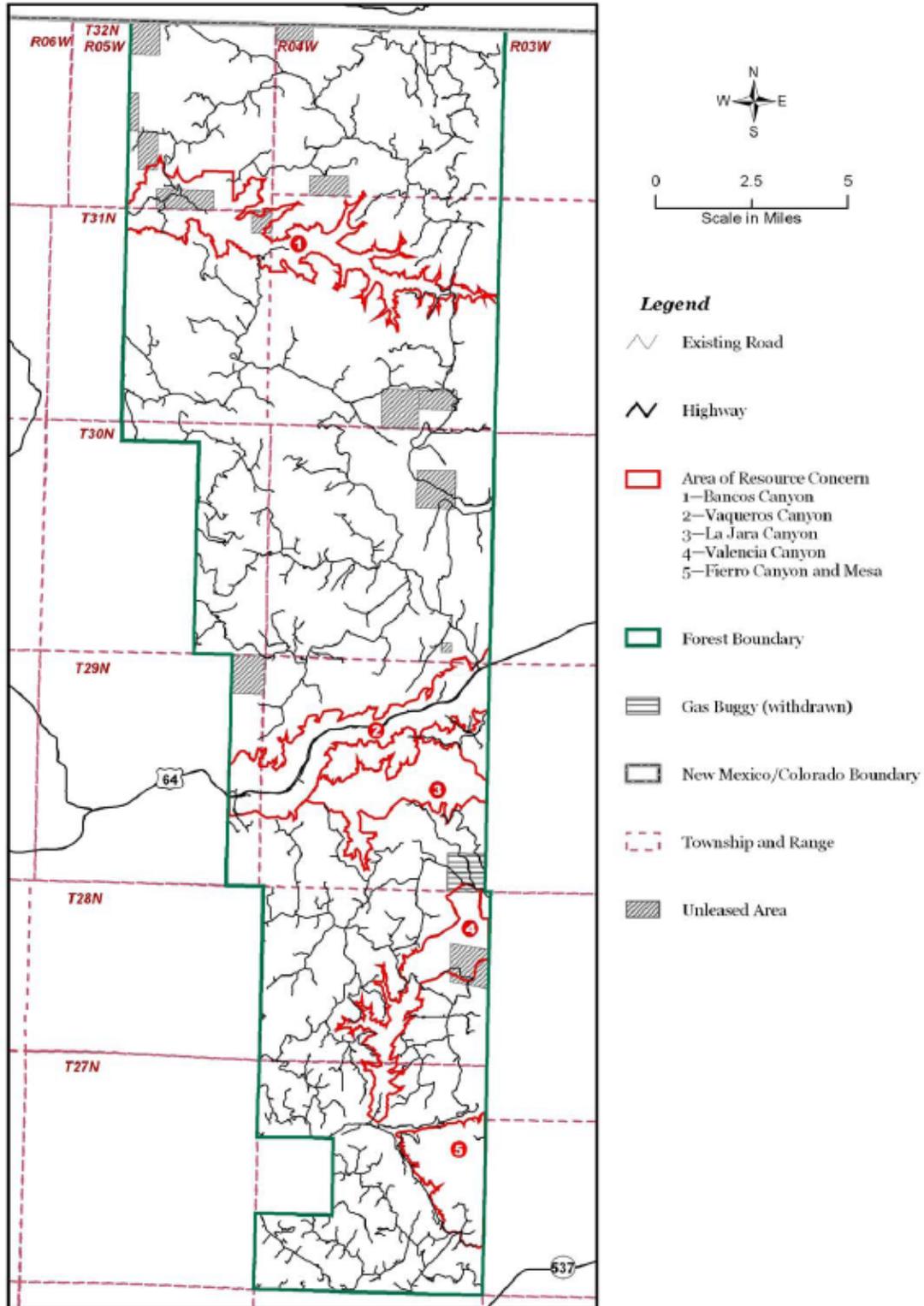


Figure 4. Designated areas of resource concern on the Jicarilla Ranger District and unauthorized parcels authorized for lease

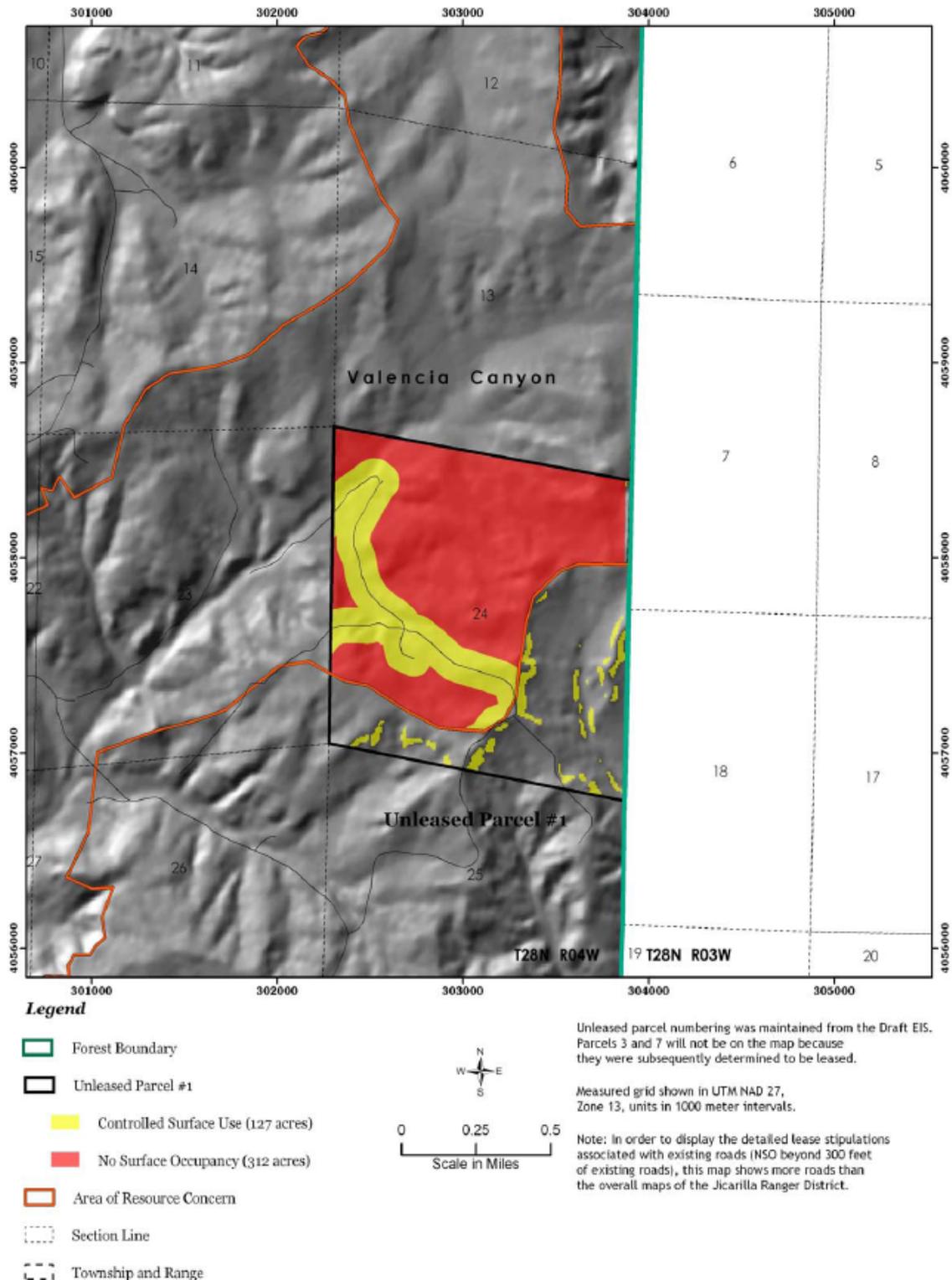


Figure 5. Parcel #1 authorized to lease with applicable stipulations

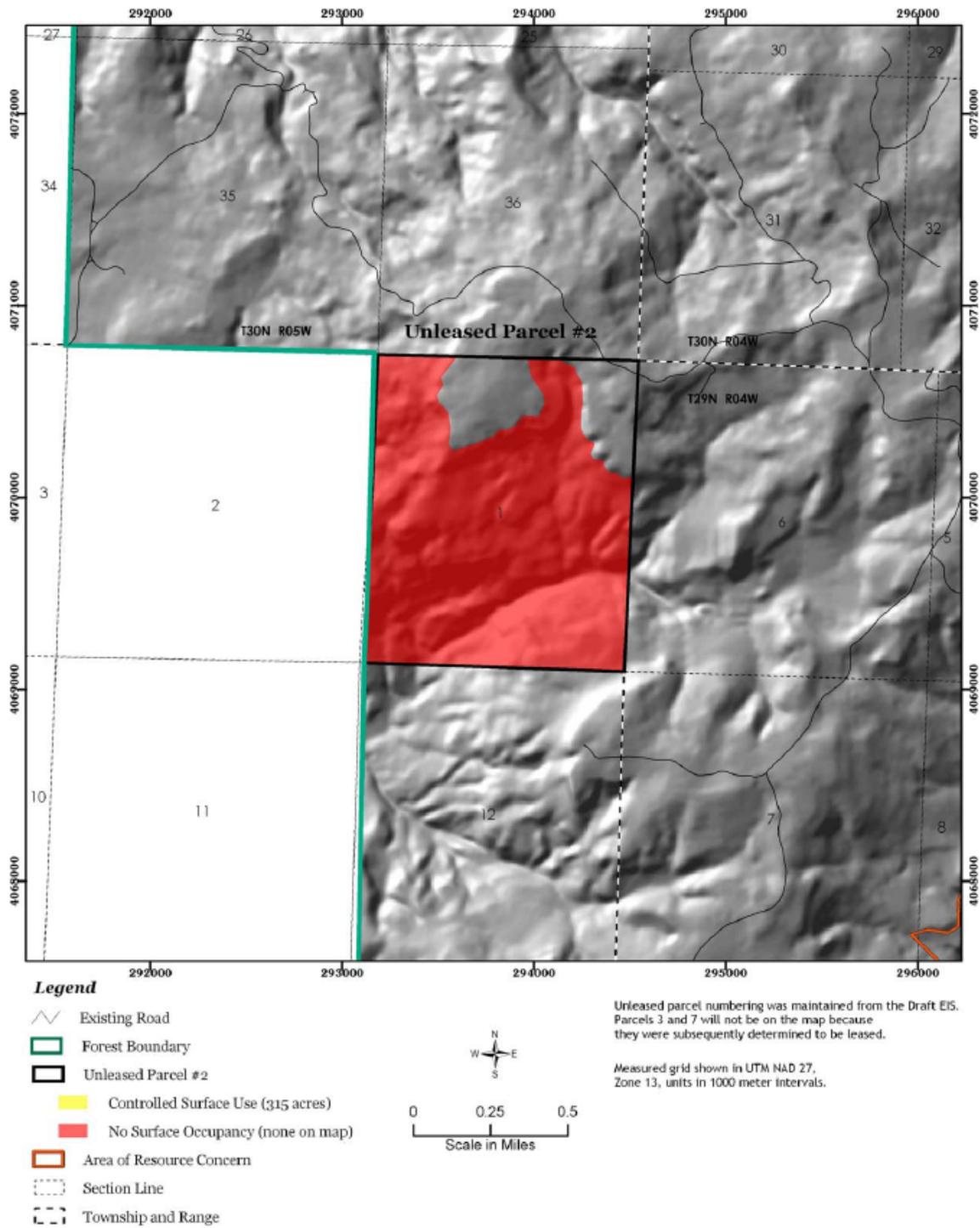


Figure 6. Parcel #2 authorized to lease with applicable stipulations

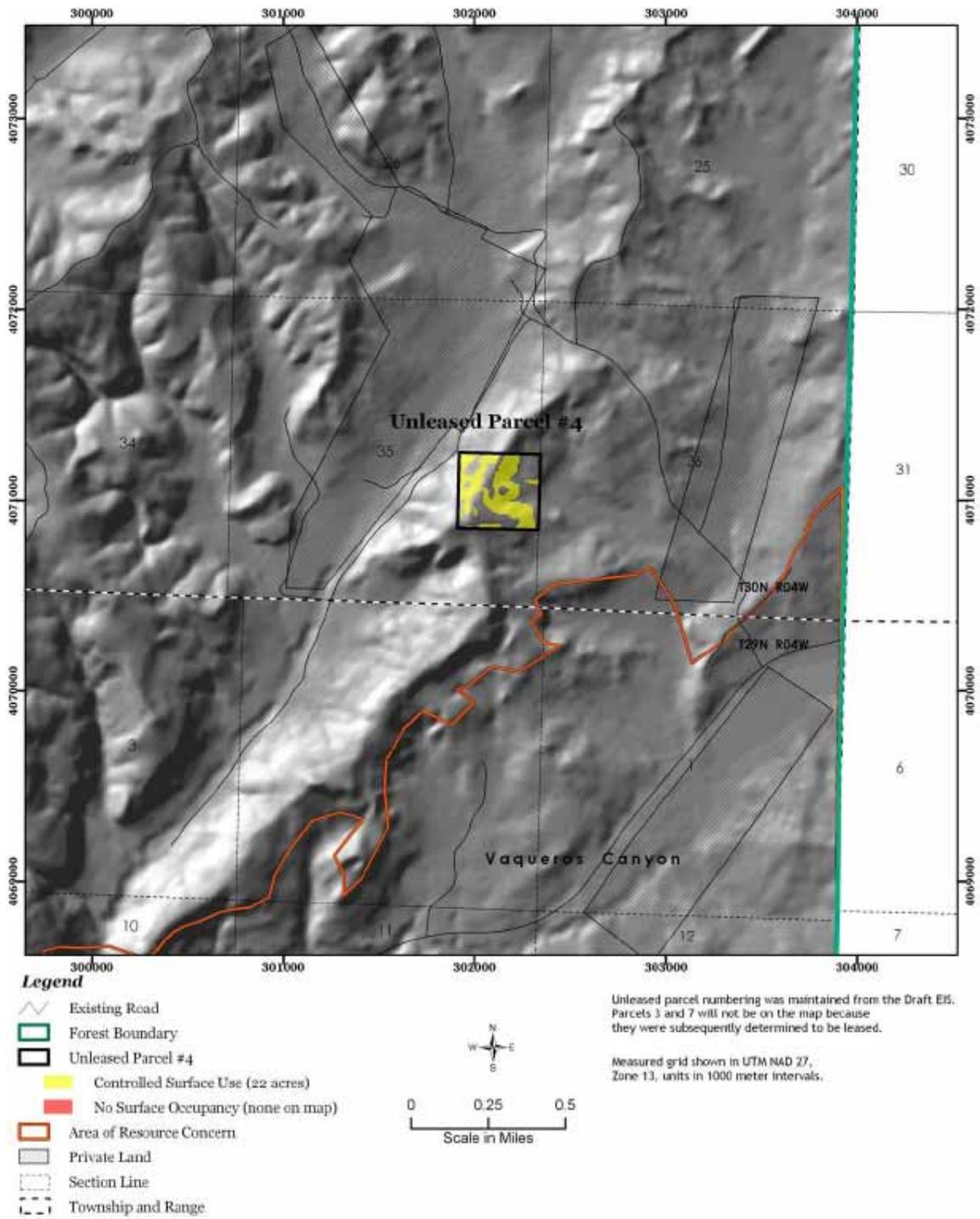


Figure 7. Parcel #4 authorized to lease with applicable stipulations

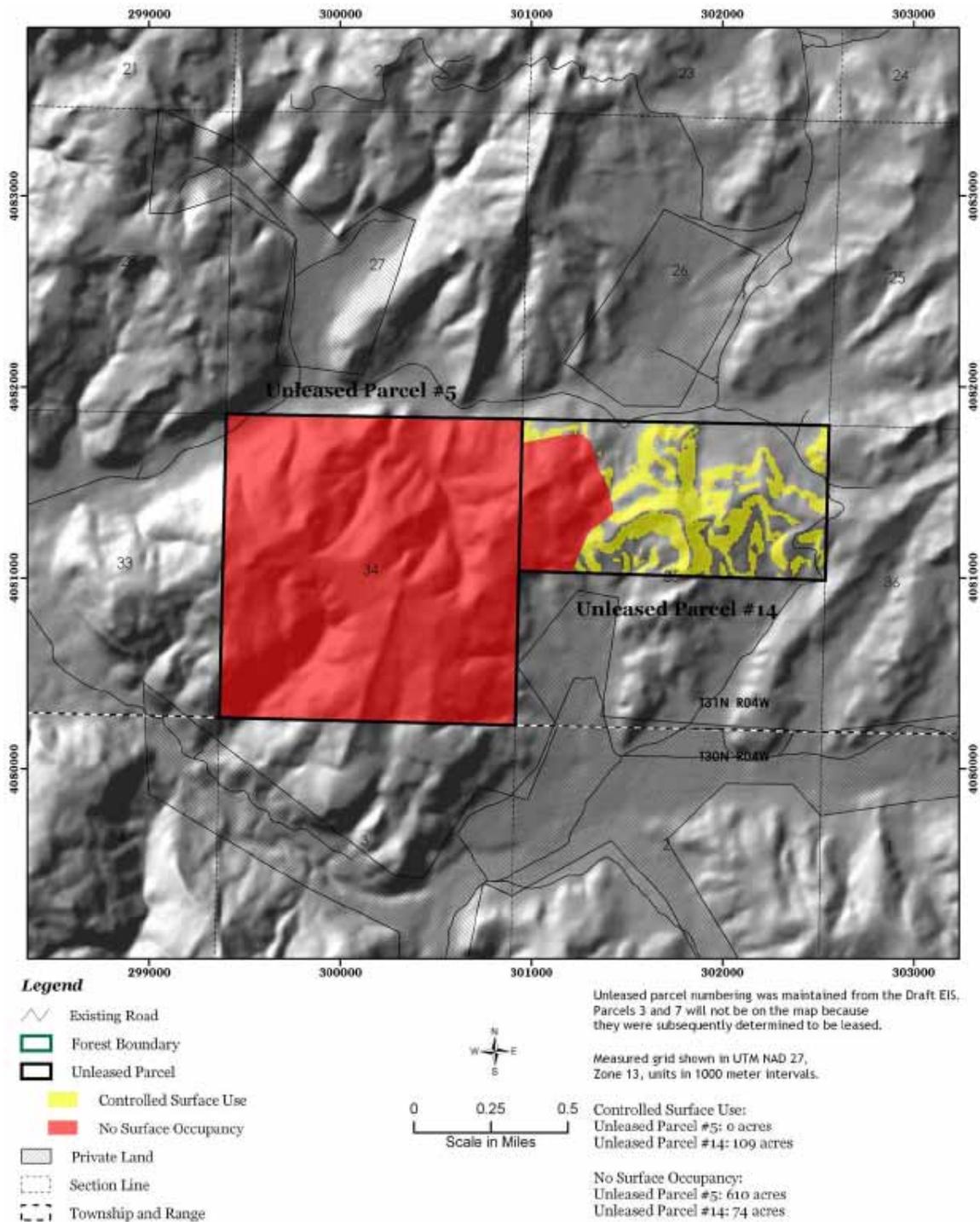


Figure 8. Parcels #5 and #14 authorized to lease with applicable stipulations

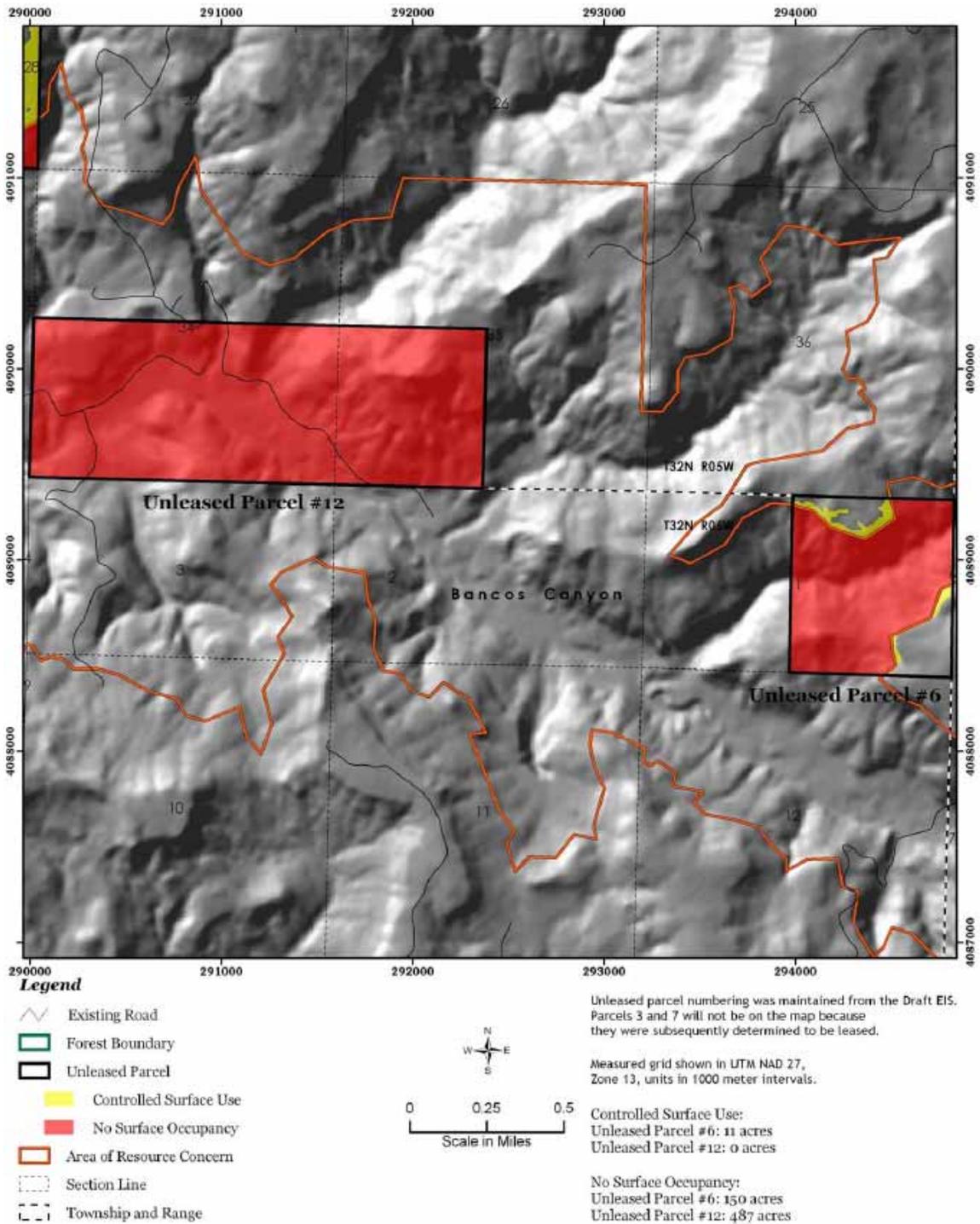


Figure 9. Parcels #6 and #12 authorized to lease with applicable stipulations (Township indicated on map beside unleased parcel #6 should be T. 31N, instead of T. 32N)

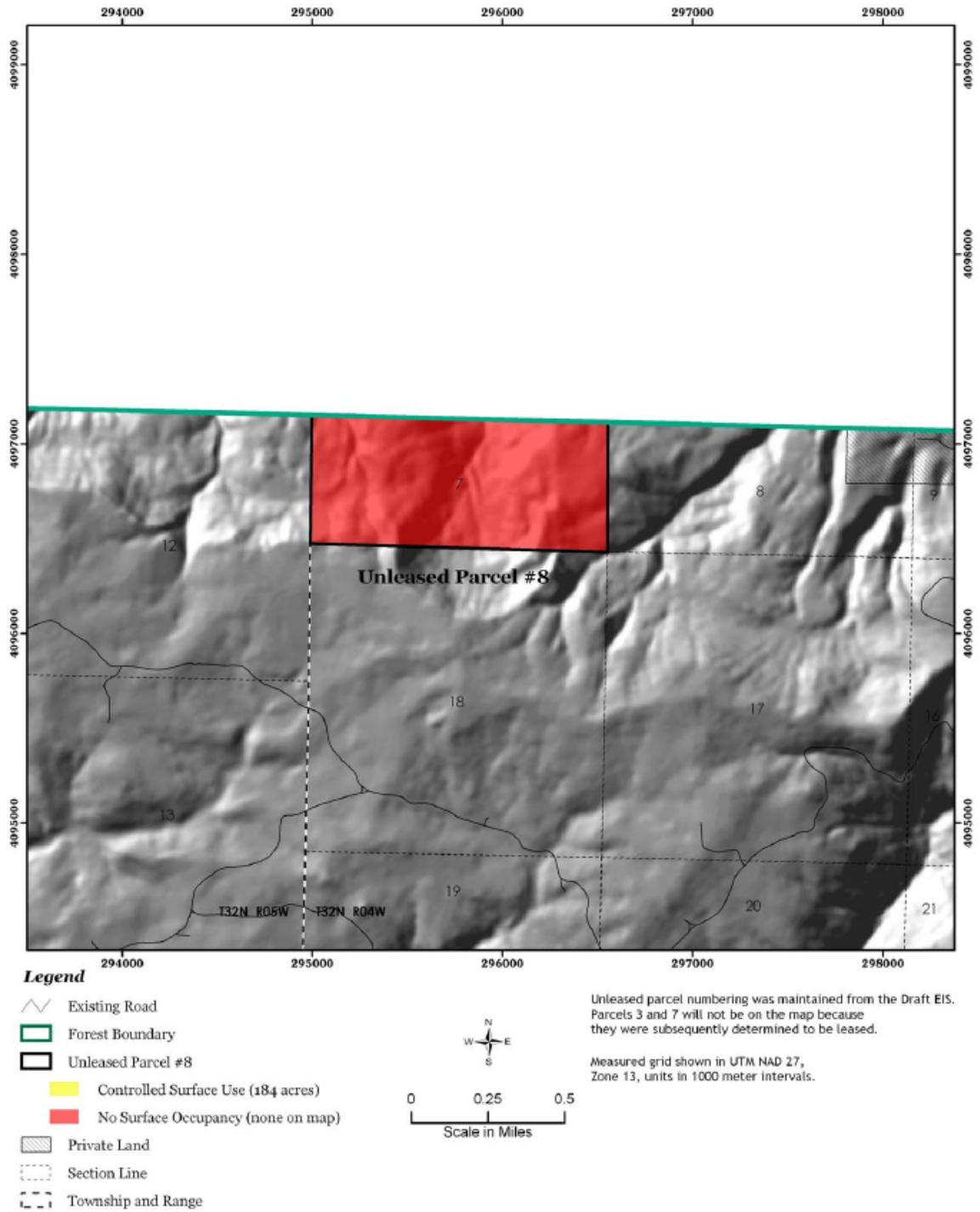


Figure 10. Parcel #8 authorized to lease with applicable stipulations

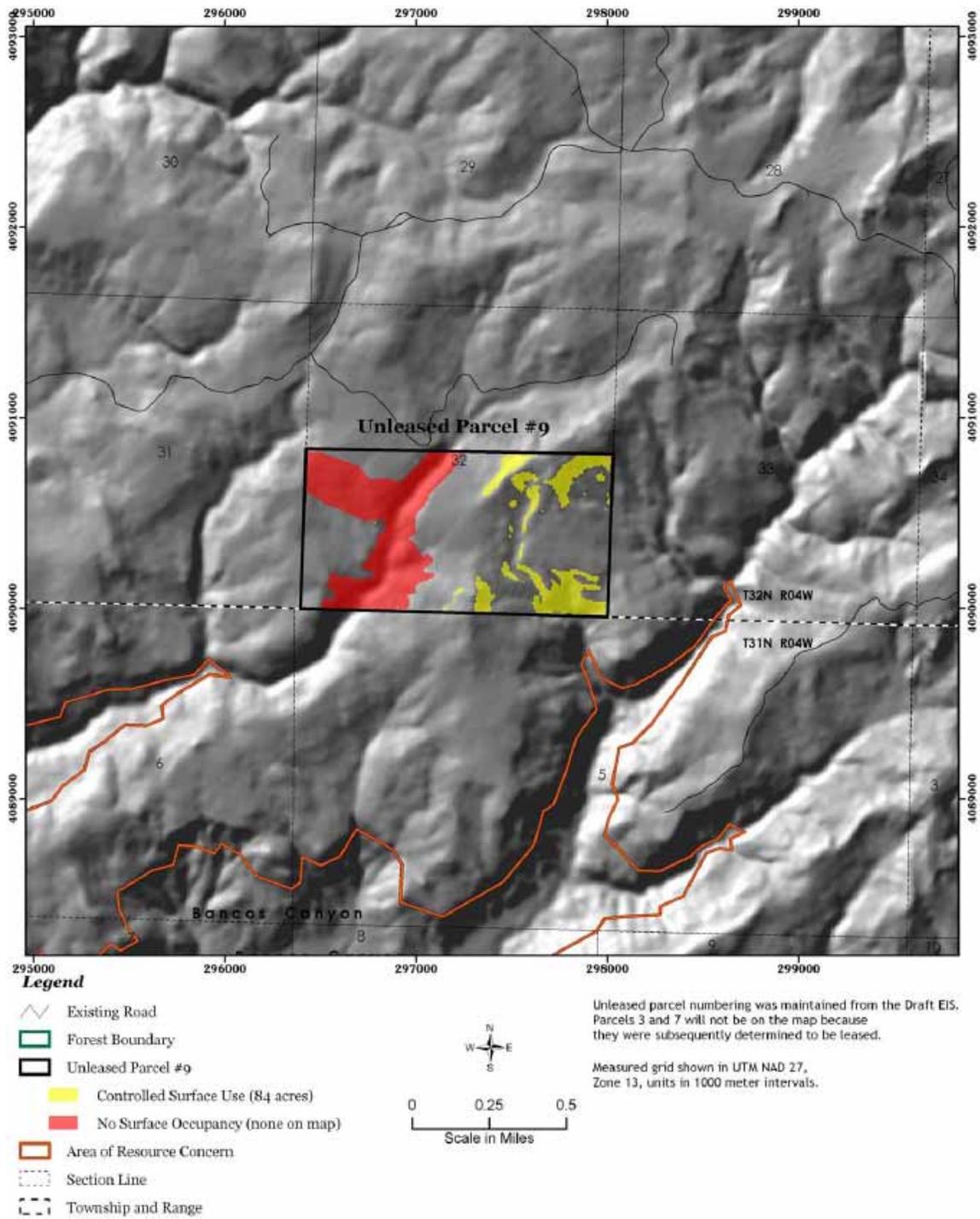


Figure 11. Parcel #9 authorized to lease with applicable stipulations

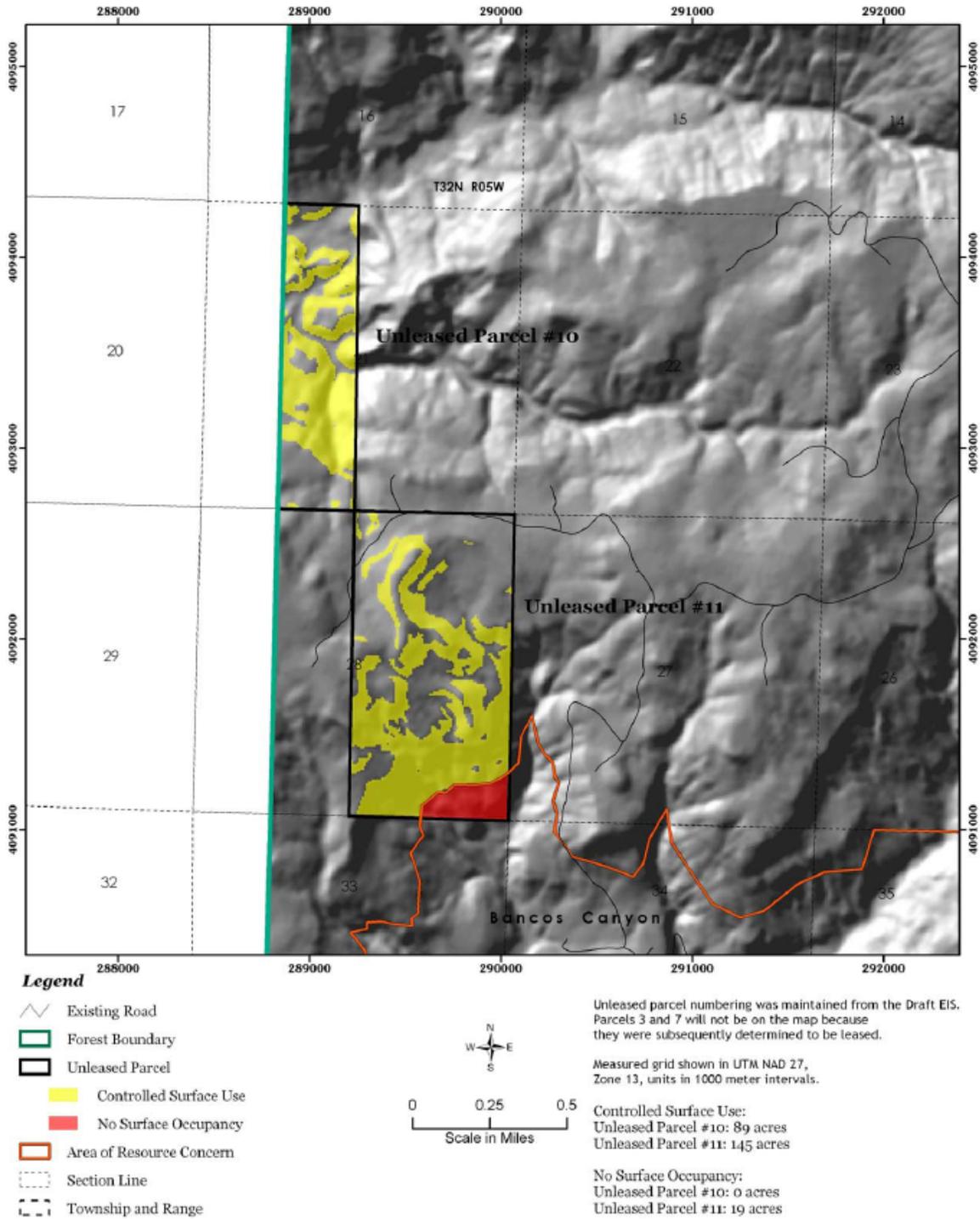


Figure 12. Parcels #10 and #11 authorized to lease with applicable stipulations

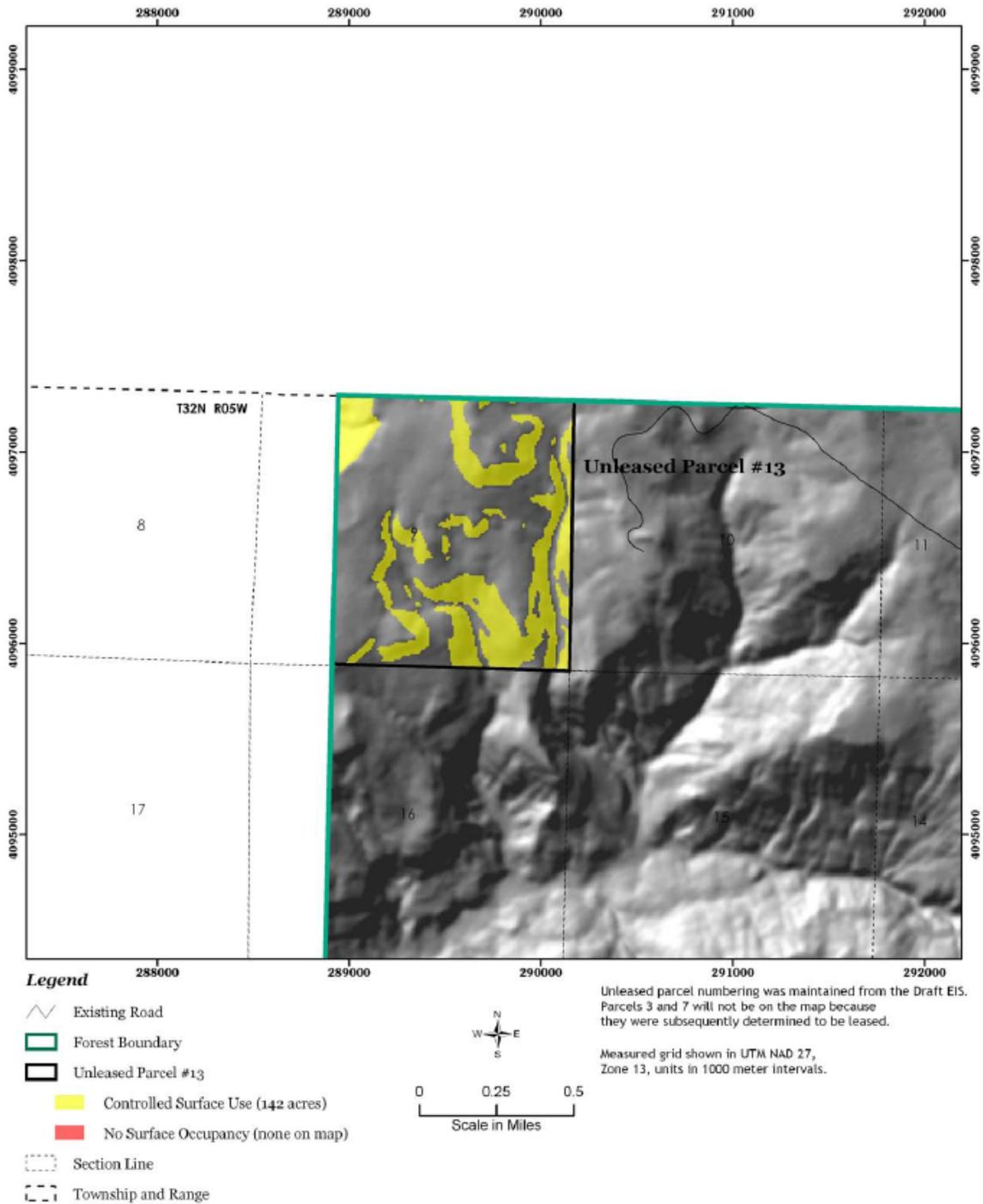


Figure 13. Parcel #13 authorized to lease with applicable stipulations

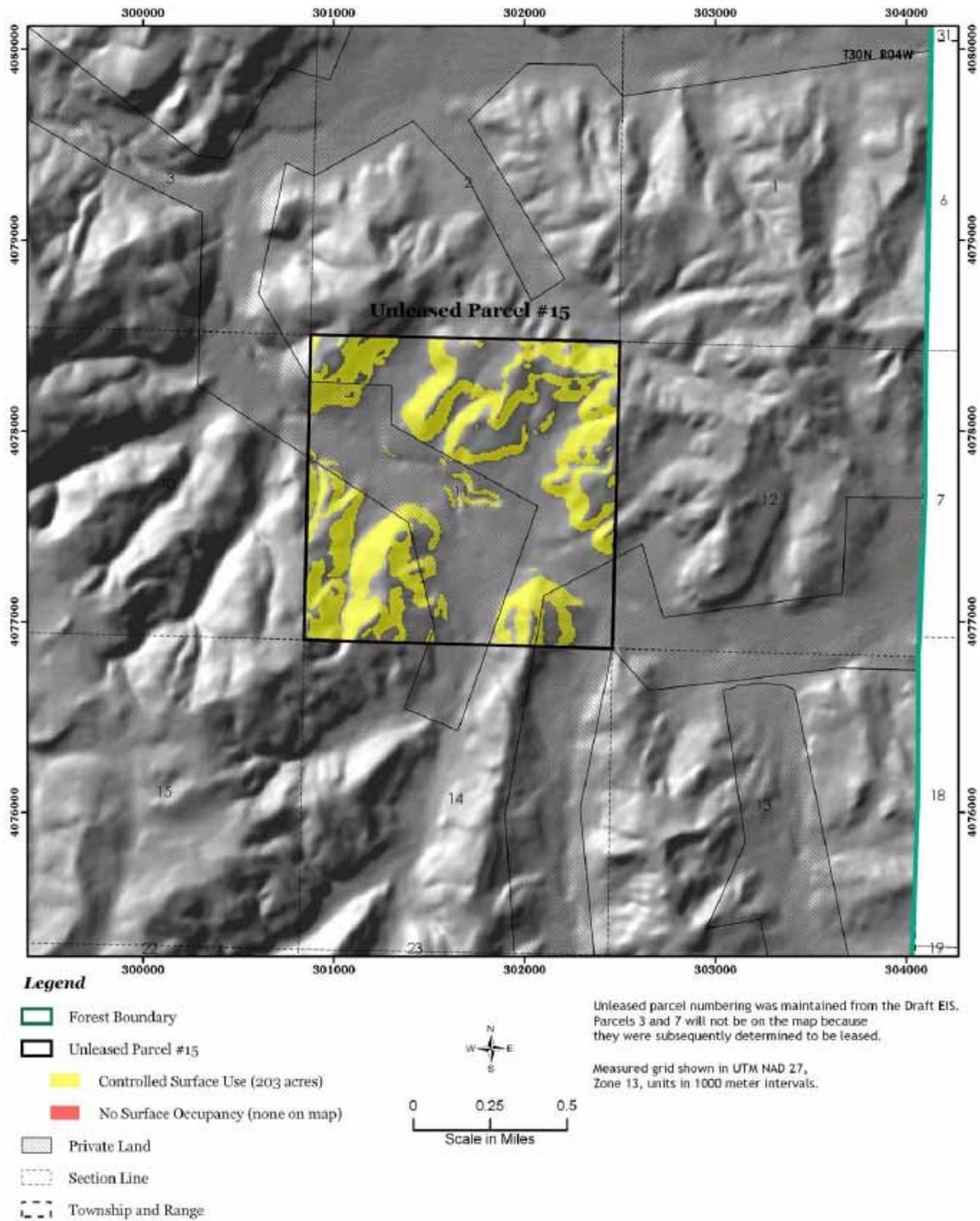


Figure 14. Parcel #15 authorized to lease with applicable stipulations