



United States Department of Agriculture

Office of the Secretary
Washington, D.C. 20250

OCT 30 2015

The Honorable Sally Jewell
Secretary
U.S. Department of the Interior
1849 C Street, NW., Room 6156
Washington, D.C. 20240

Dear Secretary Jewell:

In accordance with Section 106 of the National Historic Preservation Act and its implementing regulations, I have received and considered the final comments of the Advisory Council on Historic Preservation (ACHP), dated September 21, 2015, regarding the Solenex LLC Application for Permit to Drill (APD) in the Badger-Two Medicine Traditional Cultural District (TCD) located on the Lewis and Clark National Forest.

Since the Solenex lease (MTM 053323) was issued in 1982, "there have been many policy developments, not only with regard to historic properties of traditional religious and cultural significance to Indian tribes but also in Federal-tribal relations." (ACHP letter, September 21, 2015, p. 3.) As noted by the ACHP, regulations, guidance, and Executive Orders have changed and increased the requirements for agencies evaluating projects. The U.S. Department of Agriculture's (USDA) Forest Service has worked diligently to comply with the new requirements by pursuing oral histories and contracting supporting archeological and ethnographical work, which gradually revealed the unique and special nature of the Badger-Two Medicine TCD.

As the Forest Service's knowledge of the uniqueness of the Badger-Two Medicine TCD increased, so did its management of the land. The Forest Service made the Rocky Mountain Front, including the Badger-Two Medicine TCD, unavailable for future leasing in 1997. The Forest Service also limited motor vehicle access in the area. In addition, Congress recognized the unique character of the Rocky Mountain Front and legislatively closed it in the Tax Relief and Health Care Act of 2006 to future leasing and locatable mining operations.

After considerable research, consultation, and documentation, the Forest Service concluded in its Determination of Adverse Effects documentation, dated December 3, 2014, that the Solenex APD will pose adverse effects to the Badger-Two Medicine TCD. This determination received concurrence from the Blackfeet Tribal Historic Preservation Officer, the Montana State Historic Preservation Officer, and the ACHP. ACHP's final comments state: "mitigation will not address the diminution of qualifying characteristics of the TCD" and, regardless of mitigation measures, "the Blackfeet Tribe's ability to practice their religious and cultural traditions in this area as a living part of their community life and development would be lost." (ACHP letter, September 21, 2015, p.7.) The ACHP recommends that USDA and the U.S. Department of the Interior "revoke the suspended Permit to Drill, cancel the lease, and ensure that future mineral development does not occur." (Ibid.)

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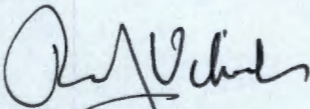
After reviewing the Section 106 documentation and considering the ACHP's final comments, I agree that the Solenex APD in the Badger-Two Medicine TCD will pose adverse effects to the TCD in ways that cannot be fully mitigated. Based on this information gained through the full consideration of the spiritual and cultural significance of the Badger-Two Medicine TCD, the Forest Service's determination of adverse effects, ACHP's final comments, changes in land management priorities, and consideration of Solenex LLC's comments, I find that the balance of considerations weigh in favor of not lifting the suspension of operations and production. Therefore, I recommend that you take action as you deem consistent with your statutory and regulatory authorities to cancel the Solenex lease (MTM 053323).

As the remaining leases are located in the TCD and their development would also pose adverse impacts to the TCD that could not be fully mitigated, I concur with the ACHP's recommendation of taking "the steps necessary to terminate the remaining leases in the TCD."

Please contact the Lewis and Clark National Forest if you would like copies of any of the record documents relating to the Section 106 process.

I will provide the ACHP with a copy of this letter containing my recommendation, and I look forward to your final decision on the Solenex lease and the potential for other mineral development in the TCD. As you make your final decision, I would appreciate a copy of your response to the ACHP per 36 C.F.R. 800.7(c)(4).

Sincerely,



Thomas J. Vilsack
Secretary

